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- The Ex-Offender and the "Monster" Myth Edwin I. Megargee
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- Health and High Density Confinement in Jails and
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Theodore Gordon
- The Private Sector in Corrections: Contracting Probation
Services from Community Organizations Charles A. Lindquist
- Practical Probation: A Skills Course
Social Work and Criminal Justice: New Dimensions
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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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This Issue in Brief

An Organization Development Experience in Probation: "Old Dogs" Can Learn New Tricks!—The Maricopa County Adult Probation Department, Phoenix, Arizona, contracted with Training Associates to provide management and organization development training from March 1978 through February 1979. This article by Gary Graham and Herbert R. Sigurdson discusses problems within the organization which initiated this venture; OD theory is summarized; baseline data is presented; and the OD method used in the project is elaborated upon. Followup change-oriented data is presented at 7- and 12-month intervals.

Dealing With the Violent Criminal: What To Do and Say.—Criminal justice workers are often asked to give advice about how to handle an assault or a mugging attempt by a criminal. William B. Howard argues that the most immediately effective strategy is psychological resistance, and that presenting oneself in a non-critical, nonthreatening fashion will greatly reduce the likelihood of violence.

General Overview of Capital Punishment as a Legal Sanction.—In spite of United Nations efforts, capital punishment as an official or unofficial penalty deliberately imposed is becoming more frequent in far too many countries, asserts Professor Manuel López-Rey. There are two main forms of it: judicial death penalty which may be imposed by a subservient judiciary and non-judicial death penalty which may be decided and executed by military, police, and ideological services and organizations. The author concludes that at the end of the 20th century crime and penal sanctions are more and more determined by political regimes.

The Ex-Offender and the "Monster" Myth.—A number of authorities have asserted that prisons invariably have a deleterious effect on all who are incarcerated. Using data collected as part of an extensive ongoing study of 1,345 consecutive admissions to the Federal Correctional Institution in Tallahassee, Florida, this study examined this assertion empirically through inmate interviews, comparison of personality tests administered on entering and leaving prison, and post-release recidivism data. Authors Edwin I. Megargee and Barbara Cadow conclude that the popular impression that all inmates emerge from all prisons significantly more disturbed,

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bitter and inclined toward criminal behavior is false.

The Criminal Personality or Lombroso Revisited.—This article contends that a relatively recent book, *The Criminal Personality*, is not genuine research, but merely the unsupported views of a psychiatrist (who died several years ago) and a clinical psychologist. O.J. Keller attacks the basic concept of this work, calls attention to numerous contradictions, and criticizes the research as failing to meet the most elementary standards.

The Salient Factor Score: A Nontechnical Overview.—The "Salient Factor Score," a predictive device used by the U.S. Parole Commission as an aid in assessing a parole applicant's likelihood of recidivism, is described by Commission researchers, Peter B. Hoffman and Sheldon Adelberg. The relationship found between the predictive score and favorable/unfavorable outcome is shown for two large random samples of released Federal prisoners, totaling 4,646 cases. Use of the "Salient Factor Score" as part of the system of decision guidelines established by the Parole Commission and the relationship of the guideline system to the exercise of discretion in decisionmaking are then discussed.

Health and High Density Confinement in Jails and Prisons.—High density confinement in correctional institutions has been the focus of much attention during the past decade, according to Bailus Walker, Jr., and Theodore J. Gordon. This concern has prompted several agencies and organizations to revise old standards or develop new criteria for minimizing the noxious influence of high-density confinement on jail and prison inmates. The application of these criteria and standards has raised at least one fundamental

question: Upon what bases are the standards established? Although there are many possible bases for the establishment of population-density criteria, the extrapolation of available data generated by epidemiological evaluations and medical observations suggests rational bases for controlling population density in jails and prisons.

The Private Sector in Corrections: Contracting Probation Services from Community Organizations.—After examination of current practices regarding delivery of correctional services, via purchase-of-services contracts with private sector agencies, an attempt was made to assess one of the Nation's largest private probation programs—Florida's Salvation Army Misdemeanor Probation Program (SAMP). Following analysis of SAMP's fee-financing, structure and clientele, a preliminary assessment of the program's revocation rate (6.3 percent) and cost-effectiveness was undertaken. Author Charles A. Lindquist states that while further evaluation is needed, it was tentatively concluded that several aspects of the program were effective.

Social Work and Criminal Justice: New Dimensions in Practice.—One to one counseling of offenders has been devalued partly on the basis of effectiveness studies and partly on the basis of counseling methods which assumed that the primary goal of treatment was the modification of the offender's personality. This article by Gloria Cunningham questions both the effectiveness of effectiveness studies and the need to define "treatment" in such narrow terms. The role of the probation officer is re-examined in the light of evolving views of social work intervention which validate the importance of the broader range of helping services typical of probation supervision.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.

An Organization Development Experience in Probation: "Old Dogs" Can Learn New Tricks!

BY GARY GRAHAM AND HERBERT R. SIGURDSON*

I. Introduction

STUDENTS of business and public administration have developed and field tested intervention procedures for helping dysfunctional organizations assess the sources of their problems and take corrective action. The approach used is generally referred to as organization development (OD) and is based on the findings of behavioral research conducted by psychologists, sociologists, and other social scientists.¹ The methods used are by no means new, yet they are rarely applied to organizations which increasingly seem to suffer from a general malaise of apathy and indifference with respect to productivity and goal achievement.² It is from this perspective that we find it novel to be writing and sharing with other professional colleagues the OD odyssey of the Maricopa County Adult Probation Department, Phoenix, Arizona.

The Maricopa County Adult Probation Department initiated an OD project in the spring of 1978. A number of forces joined to create a ready environment for this OD experience. Many individuals are responsible for the progress that has been achieved. However, it is important to point out that none of this would have been possible without the support of the Superior Court of Arizona in and for Maricopa County and the dedicated commitment of the chief probation officer and his management staff. Problems were identified, needs assessed, and recommendations incorporated to increase the efficiency of the organization.

* Gary Graham is the director of the Investigation Division, Maricopa County Adult Probation Department, Phoenix, Arizona. As a member of the administrative team he was instrumental in the planning and operation of this project. Chief Probation Officer Henry Duffie provided leadership for the project. Herbert R. Sigurdson is the president of Training Associates, Inc., P.O. Box 4237, Boulder, Colorado 80306. Training Associates received the contract from Maricopa County Adult Probation Department to provide organization development training consultation and technical assistance throughout the life of the project. Mr. Sigurdson was ably assisted by Dr. Frank Delf'Apa, director, Corrections Program, Western Interstate Commission for Higher Education.

Because we live in such a turbulent and rapidly changing society we never quite seem able to keep up with the future. But in a proactive, growth oriented organization there is comfort in knowing that the end is always just around the corner. Thus, the process is ongoing and the means of anticipating and planning for the future are an enlightening example of what can occur in a complex and growing organization that is willing to say, "I think I can." The Maricopa County Adult Probation Department not only thought it could, but committed itself to an organization development process designed to mobilize resources in the pursuit of commonly shared goals and objectives.

This article will report on the historical antecedents that initiated the call for action under section II, "Problem of Identity." Section III, "A Time for Change," will discuss the process of analyzing problems and issues and developing a commitment to engage in this OD project. The OD process used in the Maricopa County Adult Probation project is summarized in section IV, "Launching the OD Strategy." Implementation responses are reported on under V, "Pieces of the Puzzle," and the present status and future plans are discussed under the heading VI, "Today . . . Tomorrow."

II. Problem of Identity

Organizational History

In 1971 the Superior Court of Arizona in and for Maricopa County, Phoenix, Arizona, created an Adult Probation Department in an attempt to unify the delivery of probation services to the courts and the community. Prior to this, each criminal bench judge of the Superior Court had an individual probation officer, which led to a wide diversity in the types of probation services offered. Shortly after the creation of the Adult

¹ Berkeley Rice, "Mid-Life Encounters: The Menninger Seminars for Businessmen," *Psychology Today*, April 1978, Vol. 12, No. 11, pp. 67-74.

² Herbert Kaufman, *The Limits of Organizational Change*, University of Alabama Press, 1972.

Probation Department, a chief adult probation officer was appointed and assigned the task of unifying and centralizing probation services within the county. The chief and the staff he inherited set about to create an organizational structure that would provide for effective administration of probation services to the Criminal Courts and the residents of Maricopa County.

At the time of its inception the unified Adult Probation Department consisted of approximately 35 persons, a size that allowed a high degree of interaction and collaboration. As the size of the organization increased, however, so did the complexity and diversity of not only persons involved, but also programs and philosophies. In response to the growth and diversity experienced, the management approach began to evolve and change. By 1977 the department had grown to approximately 120 staff, providing a wide range of programs and services to the courts and the community. Moreover, during the period from its inception in 1971 until 1977, the courts had become much less involved in the daily operation of the Adult Probation Department, and because of judicial rotation on the Criminal Bench of the Court, little ongoing interaction and interpersonal relationships existed with the judges. During 1977, however, the courts indicated a concern regarding the Adult Probation Department, how it was being managed, and directions that were being planned.

Concerns of the Court

Inherent in the centralization of probation services was a change in the relationship between individual judges and the probation officers. Both by design and by circumstance the probation officers became independent of the court and the relationship became much less personal. The nature of communication between the courts and the probation department was further limited by facility locations which physically separated probation from the courts. Consequently the 10 judges serving on the Criminal Bench were privy only to selected information or insight as to how the department was managed and the philosophies and policies of the department. Concerned as to what was going on, both in terms of management of the organization as well as in response to rumors of mismanagement and staff dissension, the Criminal Division judges selected a subcommittee on probation services to determine how the organization was functioning and whether any changes should be made.

The Judicial Subcommittee on Probation Services engaged two consultants to perform an assessment of the Maricopa County Adult Probation Department regarding (1) employee morale and (2) organizational processes functioning in the department. The management study included extensive interviews with present and past employees and used structured questionnaires to determine attitudes of employees relative to the organization. In addition, procedures were investigated as were the philosophical positions of management and administrative personnel within the department. The management study culminated in a comprehensive report on the Adult Probation Department, including its strengths and weaknesses as well as recommendations for change. In essence the report indicated that while the majority of staff were not disenchanting, there were personnel and procedural problems inherent in the organization. Perhaps most important, there was a feeling among staff of a lack of openness and participation in issues concerning the performance of their tasks. A report prepared by one of the consultants contained a number of recommendations to the court relative to increasing the efficiency of the Adult Probation Department and its ability to serve the needs of the court.

The report was reviewed by the Judicial Subcommittee on Probation Services and a number of recommendations were acted upon. These included a mandate that the administration conduct a comprehensive review of policies and procedures involving all levels of staff. Thus staff would become more actively involved in organizational procedures of importance to them. Perhaps the most relevant recommendation presented was that the department engage in an organization development project to facilitate the growth of the young management staff and move the organization toward a participative management approach in terms of planning, problem identification, problem solving, and decisionmaking.

A Basis for Change

The management study attributed the lack of communications and participation in the formulation of policies and procedures to individuals who occupied important roles in the management structure. These findings, particularly in the hands of the Judicial Subcommittee on Probation Services, served as a powerful influence for organizational change. Larry Greiner has articulated patterns of organization change which ap-

pear consistent with change processes which took place in the Maricopa County Adult Probation Department. Greiner states that external pressure is an essential motivating force in arousing management to initiate needed change. He further asserts that "until the ground under the top managers begins to shift, it seems unlikely that they will be sufficiently aroused to see the need for change, both in themselves and in the rest of the organization."³ The Judicial Subcommittee on Probation Services directed the chief probation officer to initiate changes in the management of the department consistent with the findings of the management study. They provided the pressure which aroused management to take action.

III. A Time for Change

Reorientation and Intervention

This subtitle is the second step in Greiner's patterns of organizational change. According to Greiner, in Step 2 the management system would bring in outside consultants to evaluate allegations that were being inferred. In the Maricopa County Adult Probation Department experience Steps 1 and 2 were merged. In essence the management study caused the management structure to evaluate the possibility that the problem was internal to the organization rather than "that lousy union" or that "meddling Judicial Subcommittee on Probation Services" or some other extraneous force. It is a natural reaction to project the cause of the problem outside of the management structure. This tendency was mitigated by empirical findings of the management study. Soul-searching was indicated by the management study; soul-searching was mandated by the Judicial Subcommittee on Probation Services and soul-searching was initiated by the chief probation officer in this organizational change process.

Soul-searching is a euphemism for "diagnosis of problems." The diagnosis included a search for information from line staff, middle management staff, and top administrative staff. The process is not only analytical but more importantly it communicates to all members of the organization that "(a) top management is willing to change, (b) important problems are being acknowledged and faced, and (c) ideas from lower levels are being valued by upper levels."⁴

Once problems are recognized, it is another

matter to develop effective solutions and obtain full commitment to them. The chief probation officer systematically and wisely used the management study as a tool for organizational analysis (Phase III in Greiner's Patterns of Organization Change) and as a planning document in formulating a change strategy (Phase IV in Patterns of Organization Change).

The first course of action included reorganization at the top administrative structure to increase the ability to identify problems and deal with them as well as increase the flow of communication necessary for this to occur. Subsequent to the resignation of the assistant chief probation officer the position was eliminated and replaced by three separate functional divisions, each having a division director (Investigation, Field Services, and Support Services). Further, an administrative staff position was created to facilitate the communication processes between the chief and the directors of the three functional divisions. Other staff adjustments were made to suit the new functional organizational structure. Over time some individuals unable to adjust to the reorganization left, others who had previously been viewed as obstructionists valued the changes as positive steps and became supportive of the new approach management had embraced.

Although a new organizational structure was created, a new structure in and of itself could not obviate all of the problems and issues in need of change. Accordingly, the chief called all management staff together to inform them of the second part of his commitment to innovation, that of engaging in a process of organization development that would include team building and action research as the basic methods of intervention. He stated that he felt the new organizational structure would cause a certain degree of change but that it would also be necessary for a new attitude to be developed within the organization as well as a higher trust level and more open communication. Based on this commitment by the chief a new attitude and a new hope was seeded among those within management. This new hope was enhanced by the chief's request that all persons within the organization accept the individual challenge of diligent effort in the resolution of historical problems that inhibited individual and organizational growth. He indicated his desire for the creation of a dynamic and growing organization and challenged each member of the management staff to join him in his commitment to an

³ Larry E. Greiner, "Patterns of Organizational Change," in *Organizational Behavior and the Practice of Management*, David R. Hampton et al., Glenview, Illinois: Scott, Foresman and Co., 1973, p. 906.
⁴ *Ibid.*, p. 907.

organization development project designed to address systemwide problems and lead to positive change.

The Organization Development Strategy Overview

Organization development (OD) has been defined as a long-range effort to improve an organization's problem-solving and renewal processes through participative management of the organization's culture and climate using formal work teams. From this perspective, formal work teams become the medium and the means of accomplishing a culture supportive of self-renewal, self-correction, and one that continues to expand the choices available to the organization as it copes with the changing demands of a changing society.⁵ Operationally the OD response endorsed is based on seven basic principles:

(1) The change emphasis is placed on group and organizational processes in contrast to substantive content. It is the OD consultant's responsibility to supply method, techniques, and theory necessary to help members of the organization work more effectively as problem-solvers and decisionmakers. The OD consultant does not study organizational problems and recommend expert solutions.

(2) The unit of analysis for problem identification, problem-solving, and action planning is composed of natural work groups in the organization. The OD emphasis is on helping these work units learn more effective modes of organizational behavior.

(3) OD intervention focuses on the collaborative management of the work team culture. The focus is to create a culture or climate that is open, trusting, task oriented, and free from dysfunctional tension.

(4) OD is concerned with the management of the total system. In this regard the OD consultant avoids being the advocate of anyone's pet ideas. Rather, he is an advocate of certain procedures needed for problem-solving which may include the raising of sticky issues as a method of dealing with hidden sore spots.

(5) The OD strategy uses the action research model to surface and solve problems. It is a long-range effort to induce planned change based on a diagnosis which is shared by members of the

organization. Action research is a persistent strategy of involvement and exploration.

(6) OD uses an outside consultant with a behavioral science orientation as a change agent or catalyst for change. His neutrality helps surface problems which might otherwise remain hidden. As an outsider he is inclined to ask questions that could be embarrassing to an inside staff person who probably knows the answers and would avoid raising many sticky issues.

(7) The OD strategy regards the change effort as an ongoing growth process. Its goal is to increase organizational effectiveness and enhance organizational choice and self-renewal.

IV. Launching the OD Strategy

The OD project was launched in Maricopa County Adult Probation Department when a contract was let to Training Associates, Inc., to provide the outside consultant staff who would serve as OD facilitators. The initial meeting occurred in March 1978 at a 2-day seminar involving top administrative staff and first line supervisors. The chief probation officer initiated this meeting by orienting management staff to the nature and scope of the project. He reviewed the historical antecedents which initiated the effort and acknowledged the importance of supervisors' participation in the management process.

The contract consultants reviewed the basic concepts which undergird the organization development process and initiated a data collection process using Andre Delbecq's Nominal Group Process technique. Supervisors and top management staff were asked to privately enumerate on 3 x 5 cards their perceptions of the most urgent problems confronting the Maricopa County Adult Probation Department. Then, using a round robin technique, problem areas were listed on newsprint and discussed for purposes of clarification. The supervisors worked in two groups generating two separate problem statements. These were shared with the total group. The consultants then agreed to merge the two sets of problem statements as a basis for planning the necessary next step.⁶

The problem statements clustered around eight basic principles of the organization, listed in priority order as follows:

(1) Trust and confidence issues:

(a) *Staff does not trust nor have confidence in the administration.*

(b) *The administration lacks confidence and trust in staff.*

⁵ John J. Sherwood, "An Introduction to Organization Development," in *Sensitivity Training and the Laboratory Approach*, 2nd edition, Robert Golembiewski and Arthur Blumberg, eds., Itasca, Illinois: F.E. Peacock Publishing, Inc., 1973, pp. 431-436.

⁶ Andre L. Delbecq and Andrew H. Van de Ven, "A Group Process Model for Problem Identification and Program Planning," *Journal of Applied Behavioral Science*, Vol. 7, No. 4, 1971, pp. 406-409.

- (c) Line staff do not have confidence and trust with their supervisors or the administration.
- (2) There is a lack of communication from line staff up to the administration.
- (3) Organization demands (tasks) supersede the personal needs of staff.
- (4) Top administration is insensitive to:
 - (a) Contributions staff can make in the decisionmaking process.
 - (b) Contributions staff can make in planning and problem-solving.
 - (c) The general creative resource that exists among staff.
- (5) The organization lacks a clearly articulated philosophy from which might logically flow a set of policies and procedures.
- (6) The organization operates on a traditional hierarchical pattern or structure. This design is in conflict with espoused notions of participative management. In addition, the organization is characterized as being rigid, stifling of creativity, and prone to induce frustration among staff.
- (7) First line supervisors are ill-equipped to perform their duties and responsibilities. They require extensive training and development.
- (8) Accountability is lacking throughout the organization—line staff, supervisors, administration. Evidence of accountability factors included:
 - (a) A perception that the administration maintains a blacklist of personnel who are considered disruptive to the status quo.
 - (b) A perception that caseloads are too high and the administration is not taking appropriate action.
 - (c) Conflicts between professional and support staff.
 - (d) Lack of clarity regarding role definitions, particularly those pertaining to the three new division director positions.

Many of the problems listed by administrative and supervisory staff are endemic to organizations in general and public organizations in particular. Moreover, they translate rather neatly into the concepts which undergird the team building process. Included are the elements of communication, consensus decisionmaking (participative management), conflict resolution (releasing creative en-

ergies in a constructive way), and commitment to accept ownership in identifying organizational problems as well as working toward their solution. Team building seemed to emerge quite clearly as the next step for this OD enterprise.

Team Building: Old Bottles, New Wine

The contract consultants arranged for the supervisors, administrative staff, and the chief to attend a 3-day team building seminar in a conference retreat. The OD strategy was to remove the participants from the pressures of their offices and to have them stay for two nights at the conference retreat where they would be remote from the influence of outside forces (office, family, friends, etc.). Ronald Lippett has referred to the "cultural island" concept as an ideal setting for addressing problems, examining interpersonal relations, and planning action agendas for reform.⁷

The team building training design was planned to engage each manager in an assessment of his/her own basic management style, psychological orientation to the management process, and the impact that given patterns of behavior would have on employees, colleagues, and superiors. The process was effective in surfacing interpersonal "hangups" that had diminished managerial effectiveness over the years. In some cases interpersonal problems had drained the emotional energy of the management potential over a long period of time; in other situations the limitations of some management staff were identified and dealt with. One manager left the department, one took a voluntary demotion, and others initiated self-oriented personal growth programs to strengthen their management skills.

Interpersonal contracts were negotiated as a means of dealing with conflicts of the past and as a strategy for coping with them in the future, should they recur. A beginning was made, new alliances were tested, and preliminary commitment was given to the value of functional teamwork (Administrative staff, Investigation Unit managers, Field Service managers, and Support Service managers). An aura of hope and optimism prevailed in an atmosphere which, from a historical perspective, legitimately questioned the validity and durability of this apparent metamorphosis. Most managers left the seminar with reservations about the future, but with a powerful desire to "give it a try."

The team training had effectively accomplished its mission, but the reservations held by some, if not all, managers were perfectly understand-

⁷ Ronald Lippett, Jeanne Watson, and Bruce Westley, *Dynamics of Planned Change*, New York: Harcourt, Brace, and Co., 1968, p. 111.

able. Team building is akin to learning to drive a car—there are so many procedures to be learned that a rough, if not rocky, beginning is inevitable. Time is needed to try out new roles and behaviors as individual managers gradually accommodate to the values associated with a team management approach.

The OD contract provided time and resources for the consultants to continue reinforcing the team building process over a 1-year period. Thus, continuing support was available as the management teams tested out their new knowledge and skills. The consultants were able to meet with each management team (except the Support Services unit which was trained by an internal OD consultant) on four followup occasions over the ensuing year. On each occasion it was apparent that the process was working.

V. Pieces in the Puzzle

The "Back Home Reaction"

The reorganization of the department which occurred shortly before the OD project lent itself ideally to the development of functional teams. The chief operated the department in conjunction with an administrative assistant and three division directors (Investigation, Field Services, and Support Services). Each division director serves as a bridge or linking pin to the line supervisors in their respective areas of responsibility. Line supervisors, in turn, provide the bridge or linking pin connection between division directors and line workers in their respective units of operation. Theoretically this linking pin organizational structure conceived by Rensis Likert provides open channels of communication up and down the organization. Moreover, the concept carries with it the basic fundamental idea that policies and procedures are formulated by functional management teams and adopted, revised, or rejected by the top administrative team. This structural arrangement serves not only as an excellent channel of communication throughout the organization, but in addition, it unites the organization functionally at division levels and organizationally at the administrative level. Thus problems within functional units get addressed at the division level and problems between functional divisions get addressed at the administrative level.*

This linking pin structure can be an ideal or-

ganizational arrangement. However, it has little value if the human interaction process is effectively in disrepair. The OD process did, however, create an open, trusting climate, one in which conflict is viewed as inevitable and dealt with in a creative problem-solving manner. A climate where participation in the process of surfacing problems and working toward their solutions has led to a high level of ownership and acceptance of events which occur in the organization. The finger pointing and blaming of top administration virtually ceased as managers incorporated greater responsibility and concern for the management of their respective areas of responsibility and for the organization as a whole.

Do We Know How to Trust?

It is probably safe to assume that little can be accomplished in creating collaboration and collective efficiency in an organization where the element of trust is absent. From the basis of trust people learn how to be more open, to take risks, to challenge sacred cows, and to handle conflict and participation in constructive ways. In monitoring the project the consultants operated for a period of time on their own intuition about the growth that was taking place. However, the time arrived when reality testing of one's intuition is a desirable, if not essential, action research element in the OD process. Thus 7 months into the project the consultants conducted personal interviews with top management staff and all the unit supervisors. The following represents a sample of the findings to each of several questions asked.

Question 1: General Reaction to Participative Management Team Approach

I'm positive regarding the participative management approach.

We're progressing well but still have some distance to go.

We're doing better internalizing the concept but need to practice it more.

A different feeling exists—there's a free flow of positive and negative criticism.

The process has generated a momentum of good feeling—more trust and honesty between the division administrator and myself—we work together.

I like the concept. All persons in administration have bought in—we feel positive.

The process has eliminated a large amount of the "we/they" finger pointing.

* Rensis Likert, *New Patterns of Management*, New York: McGraw-Hill Book Co., 1961. Pp. 97-108.

Question 2: Opportunity for Growth Responses

Staff needs to know that administration is sincere. They have their doubts in this regard.

Administration needs to be responsive to staff needs, to solicit more involvement and to receive more input from line staff.

Decisionmaking needs to get down to operational levels.

In order for line staff to buy in, they'll have to see things happen—they need to become involved in team training before they can fully own the concept.

It's time consuming.

Confusion exists regarding role responsibilities. Sometimes I'm asked for input when I don't think I should be. Other times I'm not asked for input when I think I should be.

I'm apprehensive because historically the department has not been open and honest with personnel. I'm not sure the link pin communication process is working the way it should.

Question 3: Teamwork and Conflict

Conflict, when it occurs, is handled in an open manner.

Participative management decisions are superior to what they have been in the past.

I think overall that conflict has enhanced the quality of management decisions.

I now make comments that I would not have made at an earlier time.

Supervisors are better informed and management decisions better received.

There is an increased sense of ownership in the decisions made.

People are getting into the action without fear of consequences. Conflict is being used constructively.

Conflict Problems

Don't think we trust each other enough to say we're working as a team yet.

Question 4: Opportunities for Enrichment

Need to practice the theory and procedures we have learned.

Sometimes communications are not as good as they might be.

Management team needs to solicit more input from supervisors and line staff; e.g., appointment of new supervisors, planning for code of ethics, etc.

We learn new concepts and ideas but fail to follow through in their application.

We need to differentiate roles regarding de-

cisionmaking, responsibility charting; e.g., work furlough, should staff have input? Services to J.P., courts, should staff have input? Etc.

Division meetings are not always scheduled.

We need to review our responsibilities as supervisors.

Question 5: Most Important Next Steps

Team building by unit (7 responses).

More emphasis on unit team development based on supervisor's buying in (not sure there is full commitment of their part).

Role definition is urgently needed. Responsibility charting.

We all need to work at participative management in a conscientious, effective way. Let's not forget what we've learned.

When a comparison is made between the data collected by the consultants at the beginning of the project and again after 7 months of OD activity, it is apparent that monumental strides had been taken. To be sure, further practice and testing of new knowledge and skills will be needed, but in a growth oriented organization this process never stops. Aside from the positive changes evidenced by management responses to the interviews, it is clear that the next step in the OD process must be taken. Overwhelmingly the managers recognize the urgent need to extend the OD process to the unit levels in the organization where supervisors work with line staff.

The Court's Involvement

This OD project as originally conceived provided for the consultants to involve the presiding judge of the Superior Court of Arizona in and for Maricopa County, the presiding judge of the Criminal Division, and the 10 criminal bench judges in OD training activities. The purpose of this involvement was a desire:

(1) To engage criminal court judges in teamwork regarding the management of the criminal court.

(2) To assist the Criminal Division in identifying problems internal to the management of the Criminal Division.

(3) To assist the courts in identifying inter-system problems, particularly with respect to the court's experience in working with the Adult Probation Department.

(4) To provide the court with direct feedback regarding the status of the OD effort in the Adult Probation Department.

Participation of Criminal Division judges in a

teamwork project of this nature is believed to be a singularly unique undertaking. The presiding judges of the Superior Court of Arizona in and for Maricopa County and the Criminal Division are to be commended for undertaking this teamwork approach to the management of the Criminal Division. From a qualitative perspective the benefits derived from the project more than justified the time and effort invested. The judges were favorably impressed with the status report on the OD project in the Adult Probation Department. They saw the "before" and "after" data reported upon earlier in this article, an independent information source which confirmed their growing belief that the Adult Probation Department was "shaping up." When asked to list the positive attributes of the Maricopa County Adult Probation Department the following comments reflect the sentiments of some 20 items mentioned by judges of the criminal bench.

(1) The Probation Department as a source of problems to the court is disappearing.

(2) The Department is willing to recognize and solve problems.

(3) The entire staff seems to be working together for the common good (as a team).

(4) Their attitude and availability is good—when I want them I can get them.

(5) They handle a large volume of information expeditiously.

(6) Reports are received on a timely basis and they are adequate.

These and other comments infer a strong sense of confidence shared by the judges regarding the Adult Probation Department.

The judges worked efficiently and effectively in surfacing problems pertaining to the internal management of the Criminal Division. A cluster analysis of the many problems surfaced using the Nominal Group Process reduced the volume to six conceptual areas which lend themselves to followup work assignments using a task force or committee approach. Thus the training provided the Criminal Division judges a number of substantive management issues for continuing teamwork. The experience also demonstrated how Criminal Division judges could actively participate as members of a Criminal Division management team without sacrificing individual judge's natural concern for judicial privilege or independence regarding the prerogatives of his own courtroom.

The Criminal Division judges were also sensi-

tized to a number of intersystem problems which exist between probation and the court as viewed from the perspective of the Probation Department as well as their own. Again, when asked to report their perceptions of problems in working with the Probation Department, a large number of issues were surfaced. These also lent themselves to cluster analysis around seven conceptual issues:

(1) Probation officer qualifications; opportunities for staff development.

(2) Criminal justice system policy issues.

(3) Probation Department management issues.

(4) Revocation policies.

(5) Probation reports—general concerns.

(6) Probation reports—credibility concerns.

(7) Probation reports—disposition recommendations.

A joint committee of Criminal Division judges and probation Investigation Division representatives had already been organized and had met on a number of occasions for the purpose of evaluating presentence investigation reports. This collaboration served as a precedent for the organization of additional intersystem teams to address problems of common concern.

What occurred as a result of involving the Criminal Division in teamwork does not sound particularly spectacular and it may not be. What is spectacular is that problems common to the courts and the Probation Department are being addressed in an open, constructive, problem-solving manner.

VI. Today . . . Tomorrow

Self-Analysis

At the same time as the Criminal Division judges were involved in their own teamwork activities, the administrative and supervisory staff of the Adult Probation Department were reflecting on the impact of their year-long involvement in this organization development project. Training Associates, Inc., developed an evaluation questionnaire and asked each manager to comment on any changes he/she had observed during the preceding year in seven areas of organizational concern. Listed below are the seven areas with selected responses which reflect the general reaction of management staff.

#1—General Organizational Environment or "Climate"

I think people feel a little freer to express themselves. This is evident by comments made in unit meetings.

Still a feeling of helplessness but they are no longer afraid to speak up.

From my perspective the climate of the organization has moved more toward the positive. The management and first line supervisors appear to feel more a part of the decisionmaking process. There is a lot less of the "we-they" attitude. An example is supervisors and managers stating "that's my decision" rather than "that's what has been decided."

I believe that there has been quite an improvement in the overall climate of the department. More people are willing to let their views and creative ideas be known without the fear of rebuke, criticism, and the like. Through OD it appears that supervisors are much more candid with the division directors and line staff are much more candid with their supervisors.

The climate in the organization has changed somewhat; there is now a feeling of openness. The management team seriously considers input from staff. Staff is kept informed about what is happening with management.

#2—Approach to Problem Solving

In the vast majority of instances, problem identification and solving have been much improved by the team process. As is expected, when all staff is involved you are better able to identify the issues, cut away the extraneous agendas, and better work on the real problem. Further, through involvement, most decisions are based on a "sounder ground" and ownership is much more meaningful commodity. Overall I feel we have become much better equipped via the OD experience to deal with problems and achieve better results in our decisions.

As a result of the OD training sessions several problem-solving committees have been formed ensuring that all staff have some input into the decisions. This, of course, happens when the decision affects all staff. In management problem-solving the Investigation team, Field Services team, and Support Services team discuss the problem and possible solutions, but usually separately. The results of each team's discussions are then reviewed by the respective division directors for comment or input.

The approach to problem-solving now is to get input from all staff. A good example of this is the present attempt to deal with the problem of restrictions placed on merit increases by the Board of Supervisors.

#3—Decisionmaking Methods

Team approach. Getting input from line staff on most important decisions and many unimportant ones.

Takes a lot of time. Sometimes ideas are lost in the process. However, most of the time necessary information, ideas, and suggestions are obtained.

Staff is being consulted for input on important decisions on a regular basis. Input was requested by the Responsibility Charting Committee on four recent issues. Line staff response was minimal; however, a second good example was the entire DPO III process, both from the planning stage as well as in the final decision on the eligible candidate.

Input is normally secured from all staff before decisionmaking. Instead of the chief making decisions alone, these decisions are now made by the management team after securing input from staff.

#4—Interunit Collaboration

High—I think this is extremely true at the area offices. It appears to be growing in other sections of the department.

The three major teams seem to be working well. There appears to be a need to bring three teams together, particularly Investigation and Supervisory teams. Collaboration does exist but can be improved on.

Intradivision units have developed strong ties and commonalities of purpose and design both among the unit members and between units. However, interdivision collaboration and communication is often "cumbersome" and stifled at the unit and supervisory level. I think we have recognized this and are committed to work on the interdivisional level to "regroup" and work across divisional lines for the betterment of all staff and concerns.

There is some interunit collaboration by way of committees, etc. However, this is an area that still needs to be developed. Each unit has begun to see itself as a team, but there has not been much change in regard to all the unit teams working together. Much improvement is still needed here.

#5—Risk Taking and/or Trust

The supervisors are making more decisions. They are highly involved in the decisionmaking process.

At the management level, excellent. I feel we have a very smooth working team that is sensitive to the needs of the individual team members. Risks are taken, respect and understanding exist, and differences are resolved very effectively.

Risk taking and trust are extremely individualized and occur at different rates, levels of intensity, and situations. By and large, I think risks are being taken within the various teams; however, not much "cross team" risk taking has occurred. Further, although staff often claims OD "won't work," there have been instances of risk taking that imply, to me at least, trust.

It is felt that the last two to three meetings have been very beneficial in our division regarding risk taking/trust. In our division meetings we have explored this area in detail with the result being much more open communication and suggestions for resolving problem areas without fear of ridicule, getting railroaded, etc.

People now seem more willing to take the risk of saying what they think. Consequently, the trust level has risen. This is especially true with the division teams. It is somewhat true for unit teams, but they still have a long way to go in this regard.

#6—Communications

Good—the supervisors are representing the ideas and thoughts of their respective units. The staff's reaction to limited merit increases is very strong. However, this decision is outside of the department and staff's constructive ideas are important.

I feel this is much improved over a year ago. There appears to be a great deal more involvement of all staff at all levels in organizational goals. I can assure you that management does indeed listen to input and tries to act accordingly.

I believe communications within our division have improved greatly. However, I feel that interdivision communication could be improved. This will no doubt

occur as we begin our training in the second grant.

Both upward and downward communication have improved a lot. Now fewer people say they don't know what's going on. I think this is the area where the greatest amount of improvement has been made.

#7—Approaches to Conflict Resolution

We'll just have to keep trying.

Conflict on management level is handled very openly and out front. I feel people are more willing to state "feelings" and deal with them. There is a recognition that you don't always get your own way but tend to deal with what is best for the department.

More often than not, conflicts are addressed in a forthright and head-on manner; however, there are still situations of "tentativeness" and outright avoidance. Regarding the avoidance through some interesting and positive dynamics have occurred.

To my knowledge there hasn't seemed to be any overt conflict. If there has been conflict between any of the teams, I have not heard about it.

My answer for this is much the same as for #2. I see problem-solving and conflict resolution as very similar. Because of an increased trust level, conflict resolution is easier. This is especially true in the division and unit teams. However, we still have a long way to go to make this true *between* all the various teams.

In terms of self-analysis, the last response above to #7 appears to reflect the essence of the feeling among the managers of the department; we still have a long way to go. A review of the comments reveals a feeling of growth, improvement, and increasing trust; however, the recogni-

tion that positive growth in the organization is an evolutionary process is of critical importance. While the management staff of the organization have begun to interact more openly and constructively as a result of their training and experiences in OD, the new challenge to be faced is imparting not only the ability but the desire among all staff to assume the same commitment to OD and to the positive growth of the department.

Plans for the Future

Experience with OD among management staff over the past year provides a powerful incentive to inaugurate the process throughout the department. OD theory identifies the work unit as the basic level for surfacing and solving problems. Of course, this cannot occur without the full support of the management system. From the data reported above it is clear that the top management system is ready to engage line workers in the growth process which they have just been through. Substantial progress has been made to secure the necessary financial resources to continue this OD odyssey in the Maricopa County Adult Probation Department. A year from now the total system will have become shareholders in this participative management process. At that time the rest of the story can be told. In the meantime, however, "who said 'old dogs' can't learn new tricks?"

THE PROCESS of introducing change into a system constrained by tradition and insensitive to the concepts of organization and management—never an easy task—requires that the administrator of a metropolitan probation office pay attention to theoretical, organizational, and operational issues.

—ROBERT M. LATTA and JACK COCKS

Dealing With the Violent Criminal: What To Do and Say*

BY WILLIAM B. HOWARD

Nevada Youth Training Center, Elko, Nevada

DO YOU FEEL like you're being followed when you walk the streets late at night? When you see a gang of young people standing on a street corner, do you cross to the other side in order to avoid them? If the answer to these questions is "yes," then this article is for you. Like most people, you are not a karate expert, nor can you live up to the rugged ideals of a "Wonder Woman." Here you will learn about several psychological strategies useful for calming down violent situations. Knowledge of them should increase your self-confidence. In the event that you are accosted by a mugger, rapist, or kidnapper, using them will help you survive the episode. There were 16,000 murders, 55,000 rapes, and 160,000 robberies in the United States last year, so it is best to be prepared.

Hans von Hentig, a German sociologist, originated the study of the relationship between the criminal and his victim, called "victimology." He was convinced that the victim has a hand in causing his assailant to become violent. He boldly stated, "In a sense, the victim moulds and shapes the criminal." If this is true, then you, the reader, might be able to mould and shape your would-be assailant into a gentler mood where he will not harm you physically, even though he takes your money. An internationally attended conference on victimology was held in 1975, and another in 1977, to investigate this possibility. Based upon the findings of these conferences, and upon my own conclusions after studying crime for several years from a social psychological perspective, this article generates a series of practical suggestions about how to handle the criminal.

But first, look at the case history of an actual mugging attempt which appears in the inset. See if you can explain why the victim was able to escape unharmed and without losing her money. As you read about the psychological dynamics

which lead to violence, quiz yourself to see how they apply in Miss Sims' case. How did her way of dealing with the criminal counteract the pressures towards violence? After you are satisfied with your analysis of the situation, turn to the last page to see how the author interpreted it. (Permission to print this account was granted by Holly Sims, formerly with the Detroit Bureau of the Associated Press.)

Detroit (AP)—I heard a bicycle behind me and should have looked back, but didn't.

Somebody grabbed my shoulder bag. I struggled to hold onto it but fell to the sidewalk and was dragged on my back for several feet before the cyclist lost balance and fell.

I stood up slowly. My shirt was torn, my arm and back bloody from being dragged.

The cyclist was staring at me with narrowed eyes. He was about 20 years, thin, just under six feet with braided hair.

He was wearing an old Army fatigue jacket and black slacks. He pulled a brown neckerchief over his mouth with one hand and jabbed a knife with a five-inch blade to within a couple feet of my stomach.

"Give me your purse or I'll cut you down."

I had never been mugged before and didn't know what to do.

"I'm all bloody. What the hell did you do that for?" I asked.

The neckerchief fell from his face. He looked at me and then at his 10-speed bicycle. "Damn, my bike's broke," he said.

The knife dropped from his hand.

"You think you got problems," I said. "Look at me."

"I didn't mean to run you down," he answered.

"Why did you do it?" I asked again.

"I'm sorry," he muttered, bending over the bike.

The knife was on the sidewalk. I picked it up, put it in my pocket. He made no motion to reclaim it.

A car drove by slowly. Several well-dressed men and women looked out its windows at my bloody arm, my torn shirt.

The driver threw up his hands dramatically and pressed the accelerator, leaving me alone with the would-be mugger who had suddenly turned penitent.

"Do you work?" I asked.

"I'm going into the Army August 8. I can't find nothing to do around here." He said he hadn't found a job since he left high school two years ago. "That's why I'm going in."

"Is it worse this summer than last?" I asked.

"It's always bad," he said.

He flicked on a transistor radio and snapped it off.

I asked him where he lived. He mentioned a street and

* Grateful appreciation is expressed to Professor Robert Sommers; psychiatrist, Dr. Luke Kim; policewoman-author, Diana P. Munro; and Detective Sergeant James Lyons for their helpful comments on earlier drafts of this article.

a neighborhood. He said he knew nothing about the clash of youth gangs which has punctuated this long hot summer in Detroit.

"Am I too bloody to go to the store?" I asked.

He looked at me thoughtfully and then said, "Maybe you'd better get a band-aid."

"If you see me in the street again will you cut me down?"

"No," he said.

He picked up his bicycle, left the \$11.00 I had in my purse and rode down the empty street.

Here is an example of a criminal who is very human, who seems coherent and reachable, and who changes his mind about harming the victim. If it happened once, you can make it happen again. But first, you must understand how his mind was working at the time of the crime.

It is a popular misconception that the criminal is usually sadistic, sociopathic, or mentally ill, so that your only hope for dealing with him is to use force. This is wrong. Most criminologists believe that he knows right from wrong just as well as the rest of us, and that he cares just as much about his impact on other people. The major difference between him and ourselves is that he has a wide range of *excuses* for behaving badly that protect him from feeling guilty. Although he understands the golden rule, he invents many exceptions, or situations where it no longer applies. Essentially, he tells himself "Do unto others as you would have them do unto you, *unless* . . ." When someone comes along who qualifies as one of these exceptions, he is able to hurt and abuse her without experiencing serious pangs of conscience. It is up to the reader not to provide him with such an excuse. You must understand and control the overt and covert messages you give off. Some of them may be green lights for victimization.

Perhaps the most popular rationalization used by the criminal for behaving violently is that his victim deserves it, is of a weak and inferior character, or is a deviant of some kind. The criminal doesn't feel guilty, because the golden rule doesn't apply to such people, whom he views as non-humans. Philip Zimbardo, a psychologist at Stanford University, first identified this rationalization pattern, called *dehumanization*. It is more easily applied if the person who is attacked belongs to a category of persons towards whom slurs are often directed (prostitutes, homosexuals, Negroes), or agrees to engage in an illegal activity with the criminal. Further, a person who appears out of place is more likely to be dehu-

manized (tourists should beware of going "slumming").

Another excuse the criminal frequently uses is that he is temporarily out of control because of the influence his immediate environment is having on him. The criminal blames his heavy drinking, an altered state of consciousness induced by drugs, or else his friends' expectations that he be a "tough guy." He himself isn't responsible, and wouldn't normally behave this way. Philip Zimbardo also discovered this rationalization pattern, and called it *deindividuation*.

A third justification used by the criminal in order to maintain his self-image as a square dealer is called denial of harm. He eases his conscience by denying the consequences of his act. He will not admit that he has hurt someone. In a now classic article, two criminologists, Gresham Sykes and David Matza, indicated that many criminals view their actions as essentially gentle and benevolent. This point was recently exemplified within a study of incarcerated Israeli murderers. Thirty percent felt that they hadn't caused any suffering to their victims. Thirty-three percent felt that the victim's family had not suffered as a result of the crime, and two-thirds considered the victim responsible for his own demise.

Social situations which are *ambiguous* or confusing invite the criminal to employ one of the above excuses. Such a situation always occurs when a group of criminals face their victim on the street. Everyone feels anxious and uncertain. Because fear puts a damper on tactfulness and clear self-expression, it may seem to the attackers that the victim is laughing at or insulting them, or that she is going to physically resist when she has no such intent. The attackers know what their goal is, but they're not that sure about how to get it. Unfortunately, there aren't any controls on the criminal once he starts hitting.

Ambiguity produces mis-communication, often with disastrous consequences. For example, late night darkness, sleepiness, and heavy drinking all dull the senses, making the criminal uncertain about what is going on. Is the victim pleading for mercy or is she trying to scream? Is she going for a weapon or simply getting her money out of her purse? Has she already given up fighting, or should she be stabbed? The criminal has to make many quick decisions in order to get control of the situation. His orientation is basically a defensive one, easily leading to violence. Thus, it is essential that the victim immediately

establish communication with her assailants if she is cornered, so that they know violence is unnecessary.

Avoiding Violence: Some Practical Advice

The interaction between the criminal and his victim typically proceeds through five consecutive stages. Sometimes the crime can be totally averted by shrewd behavior during the first stage. At that time, it is still possible for the victim to recognize and avoid a situation which is going to be risky. However, during the second stage all she can do is try to throw the criminal off-balance psychologically, then make a hasty exit. She shouldn't accept the victim role until the third stage, when the criminal has revealed his intentions and all avenues of escape have been cut off. In the fourth stage, a violent attack has begun and the victim merely tries to short-circuit the process before she is seriously hurt. In the fifth stage, the victim uses her last resort, violent retaliation. Following are practical tips about how to behave during each step of the interaction.

Stage I: Avoiding Dangerous Situations

Having described four psychological mechanisms whereby the golden rule is deactivated and violent behavior becomes acceptable, you must examine the contribution which your own behavior has in producing violence. Hopefully, you can avoid situations which lead to deindividuation, dehumanization, denial of injury, and ambiguity. Five general rules are:

(1) Avoid poorly lit or overcrowded settings where either you or a potential assailant would be hard to see or identify. It is worth your time to take a longer route to your destination through well lit, orderly streets. To the extent that each person can see and distinguish the other, victimization is less likely.

(2) Avoid persons who are drunk, drugged, or hyperactive, because they are more readily disinhibited. An altered state of consciousness temporarily makes past moral training seem irrelevant to the criminal.

(3) Avoid crowds of potential assailants. Cross the street if necessary. A criminal who faces you alone is less likely to attack.

(4) When confronted by a conman or pimp, ignore his hardluck stories and sales pitches. Showing interest makes the criminal think that you are carrying money, and may enable him to stereotype you into a dishonorable, dehumanized category (e.g., "tricks," "marks"). Don't

even go for a cup of coffee with him. It could be a setup.

(5) Don't provide the criminal with an appealing motive for the crime. If you are carrying a purse, have it under your arm, with the strap extended around the other side of your neck. Don't dress elegantly if you are considering a walk through a ghetto neighborhood.

Stage II: Proper General Comportment

If you are confronted in a preliminary manner by a person whom you suspect, you should be aware of six rules about how to behave during the encounter. As he "feels you out" the criminal is able to detect a great deal about the way you see yourself from your general bearing. If you feel defenseless or afraid, he can sense this. Striking an appropriate pose increases your chances of passing through the situation unmolested. The criminal would rather find a weaker, less self-assured person to be his victim. While he hesitates you can make your escape.

(1) Dress and talk in a manner similar to the neighborhood you are moving in. Avoid the appearance of an outsider. Being similar to the occupants of a neighborhood will increase their empathy and respect for you. If possible, stay out of bus stops and laundromats in unfamiliar areas of your city, especially at night.

(2) Walk firmly and with a sense of inner direction. Even if your path is physically blocked by the criminal, maintain a posture which suggests continued attention to your destination. If asked for the time or for street directions, reply briefly and firmly, then move on.

(3) Avert eye contact with loiterers on the street as you pass close to them, unless the hardness of their gaze suggests that they are trying to intimidate you. In this case, meet their gaze head on, but continue walking briskly past. Do not hold their gaze unnaturally after you have passed.

(4) Avoid falling into a defensive, fighting pose when casually confronted by a stranger (even if he baits you). A self-fulfilling prophecy may result when the criminal notices your fear. Keep your arms at your sides, and hold your head high. Avoid turning sideways to the person. The best strategy is to leave the situation quickly and quietly.

(5) Use confident, assertive tones when talking to a potential criminal—whining tones invite dehumanization. However, don't go overboard and be derisive or challenging. If you corner your

assailant psychologically, he would rather attack you than lose face.

(6) If contact with the criminal seems unavoidable, *you* should initiate the verbal exchange, rather than letting him do it. Begin with an innocuous question which suggests you are acquainted with him, such as "Hey, man, didn't you play football for Grover Cleveland High School?" or "Hey, don't I know you? You used to work at General Motors, didn't you?" Then make a hasty departure after mumbling an excuse such as "Sorry, I thought you were someone else." Seizing the initiative thwarts dehumanization, and throws the criminal off balance.

Stage III: Confrontation and Conversation

If you *are* cornered by the criminal, and he has already demanded your money, following are seven general rules regarding how you should respond to him before you give him what he wants. Their purpose is to relax him and to gain his sympathy, thereby lessening the probability of violence.

(1) Watch the criminal's feet. If he steps back a pace and turns sideways to you, it probably indicates he is drawing out a weapon. Back away from him immediately, and be watchful. But don't run unless probable help is very close by. A study by the Denver Anti-Crime Council indicates that running increases the likelihood of your being hurt by more than five times.

(2) Make no sudden movements. Unless the criminal is hitting you, *don't* raise your arms or turn sideways to him. Keep your hands out of your pockets and pocketbook.

(3) A very important point is that you, the victim, should expect to experience a surge of adrenalin when the criminal corners you and demands your money. Physical arousal will make you want to do all kinds of dramatic things, such as shouting at, threatening, or attacking the criminal. **RESTRAIN YOURSELF!!** Such behavior enables him to dehumanize you, and to transfer responsibility for his own violent behavior onto you. A study conducted in Oakland found that rape victims who fought back were five times as likely to be seriously hurt during the encounter. An extensive review of police files by the Denver Anti-Crime Council revealed that resistance increased the probability of injury by 3.7 times. Finally, a study by the Queen's Bench Foundation in San Francisco showed positive correlations between the amount of resistance proffered, and how seriously the rape victim was

injured. If you must resist, do so verbally and calmly.

(4) To relax the criminal and to humanize yourself, tell him your name, substituting a false last name. Tell him that he reminds you of your brother if you are young. If you are middle-aged, tell him he reminds you of your son.

(5) Tell the criminal about times you've been unemployed, lonely, or desperate. Emphasize your similarity to him and encourage him to talk to you. Acknowledge the difficulties in his life which are making him break the law, rather than disparaging them (even though you may disagree completely).

(6) Special cases:

(a) A woman of childbearing age should tell the criminal not to hurt her, that she's pregnant.

(b) An elderly woman should tell the criminal not to hurt her, that she has a bad heart or high blood pressure.

(c) An elderly woman should tell the criminal to leave her at least part of the money, that she won't get another Social Security check until the next month. Bargain with him in a good-humored tone. Don't be quarrelsome or accusing.

(7) If the criminal ignores or is angered by your efforts to dissuade him, do *not* maintain eye contact or plead with him any longer. It may be interpreted as defiance. *Cooperate* with him, and he will probably leave without harming you.

Stage IV: Short-circuiting a Violent Attack

The average criminal prefers to "feel out" his victim before demanding her money or cooperation. Thus, you can employ the demeanor and conversational strategies we discussed above in an effort to discourage him. However, some criminals will become violent anyway, and others will attack first and talk about it later. Should this happen to you, following are five strategies for decreasing the ferocity of the attack.

(1) *Show* pain rather than hiding it. If you are bleeding or otherwise wounded, point this out to the criminal, for example: "I'm bleeding," or "My arm is broken." It may even be desirable to exaggerate these injuries. This tactic reverses both the denial of harm rationalization, and the deleterious effects of ambiguity.

(2) Feign hysteria. Throw yourself on the ground, flail with your arms, kick wildly, eat tufts of grass, or foam at the mouth. Rather than showing anger or fear towards the criminal, you should simulate a total breakdown of organized

behavior. Act as though he isn't even there anymore. This will probably bewilder him more than anything else. The criminal's game-plan is broken, but he has no one to blame, since you aren't deliberately defying him.

(3) An elderly woman should feign a heart attack. Gasp for breath, squeeze a hand over the left side of your chest, and say "Oh, oh . . . my God . . . I can't breathe!" This tactic induces great fear in the criminal that he will be charged with murder. Even if he takes your money while you are on the ground, he is unlikely to continue beating you.

(4) If there are bystanders, pick *one* person from amongst them, and address requests for help specifically to him. If that person moves away, choose a second person and repeat the tactic. Say, "Hey, you with the red hair, help me!" instead of just "Help me!". It may even be desirable to tell the bystander what to do. These tactics will thwart the denial of responsibility rationalization, which bystanders apply just as handily as the criminal does.

(5) If there are bystanders, label *what* is occurring for them. Crimes have an ambiguous appearance to the disinterested witness, making it easy for him to invent a "rational" explanation which does not require his intervention. "It's just an argument between friends," and "It's probably a lover's quarrel" are typical examples. You should shout "Help, I'm being robbed," or "Help, I'm being raped! I don't even know this guy." Merely shouting "Help!" conveys little information, and enables denial of injury.

Stage V: Fighting Back

If the foregoing strategies don't slow down the criminal's attack, there is no recourse left for you but to physically try to stop him. Prepare for this eventuality by always carrying one of the unobtrusive weapons discussed below. (The disadvantage of a knife or a mace can is that there is *no choice* about using it once you have drawn it out. You have already committed yourself, simply by its presence.) If a possible criminal approaches, have the weapon in hand, as its presence won't antagonize him. Use it only if the procedures described above have already failed you, and you are about to be seriously hurt.

(1) The key to fighting back successfully is having thought about what you are going to do long *before* it happens. The idea of becoming involved in violence is repulsive to most of us, but a psychological state of preparedness is your

best protection against attack. Think about and practice what you should do.

(2) A choke hold is easy to break so long as you are on your feet. Simply link your hands together in an inverted "V" and shoot them upwards between your assailant's arms, or else raise either arm above your head and turn your whole body to the side away from that arm.

(3) Much ado is made about hitting an assailant's nerve and pressure points, so that he is temporarily disabled. Unless you are a doctor or extremely well-versed in the martial arts, you are unlikely to do this effectively. If you must hit your assailant, the groin is easily and reliably located. Strike there, sharply pushing your arm forward into the groin area, with your hand held open. Then grab, squeeze, or pull.

(4) If you are attacked in a parking lot, simply hold your car keys in your fist, with the pointed ends sticking out from between your fingers. The criminal won't perceive this as a weapon. When he is very close, rake his throat with a sharp upward motion of your arm. Be sure to go for his throat, not his face. Then back off to a safe distance and run away as quickly as possible. Use your left arm as a shield during the confrontation, holding it in against your chest.

A variant of the same strategy is to carry a pencil or fountain pen in the palm of your hand, with the pointed end protruding from between the fingers of your closed fist. When the criminal is very close, shoot your arm straight upwards, with the pencil entering his throat underneath his chin.

In closing, I would like to point out that these strategies for fighting back should only be used after all else has failed. The philosophy of this article is that it is better to surrender your money than it is to risk either your own life or that of the criminal. When you do fight back, your goal should be escape, not victory. A cornered criminal is dangerous indeed. In a sustained fight, his endurance and experience with violence will probably enable him to dominate you. You should simply do what is necessary to achieve a momentary disengagement, then run as though your life depends on it. (It may.)

In this article, you have learned how to interfere with and block the excuses the criminal uses to justify violence. Behaving appropriately will reduce the likelihood of your being attacked. Go out of your way to avoid dangerous situations, but if you are caught in one, try to project a

comfortable and self-confident image. If approached by a stranger seeking a light or street directions, reply quickly and firmly, then continue on your way without being easily diverted. Should escape prove impossible, react to the criminal as a human being, neither romanticized nor vilified, who at this time and in this place is capable of violent and dangerous behavior. Talk to him, emphasizing your own humanity and readily acknowledging his. If you apply these suggestions to your own life, you will be more likely to return home safely.

The victim behaved wisely during the confrontation, demonstrating natural cognizance of the principles we have discussed in a number of ways, including:

(1) She did not allow the attacker to intimidate her, coming back with "What the Hell did you do that for?" This thwarted the potential for dehumanization.

(2) She was not overly aggressive or critical towards the assailant, in no way judging him, threatening, or cornering him.

(3) She immediately called attention to her injury, saying "I'm all bloody . . . You think

you've got problems. Look at me." This emphasized her own humanity, and made her injuries seem more real.

(4) She individuated the attacker by showing curiosity about him, asking "Why did you do it . . . Do you work . . . Where do you live?"

(5) Eye contact was established early in the interaction (by mutual staring and by fallen handkerchief), which inhibited deindividuation.

(6) She acknowledged that the attacker's problems were real, admitted that the employment situation was bad, and mentioned the youth gangs in his neighborhood. By showing sympathy for him, she made her own humanity seem more real.

Such behavior will not always work. However, it increases the probability of escape, and emphasizes the common humanity between the victim and her attacker. Indeed, in a personal communication, the author of this account indicated a desire to talk further with her attacker—to ask him why he did it and how he feels about it now. Persons who react aggressively and contemptuously toward the criminal rarely get off so easy, much less with such a healthy attitude.

General Overview of Capital Punishment as a Legal Sanction

BY PROFESSOR MANUEL LÓPEZ-REY, LL.D.*

THE PANORAMA of the legal situation of capital punishment is more blurred than it was thirty years ago in spite of the efforts of the United Nations and some nongovernmental organizations, particularly Amnesty International, to clarify it. The reasons for the confusion are many but the following may suffice here: first, the compilation of the corresponding legal provisions is often difficult especially when they are embodied in decrees and emergency regulations often modified by the necessity of reinforcing the continuity of dictatorial regimes; secondly, by the fact that in many countries judicial executions are imposed by a politically dominated

judiciary or a variety of military courts which are instruments of the existing regime; and finally, because at the international level many governments continue to ignore the requests made by the Secretary-General of the United Nations to provide adequate legislative and statistical information in accordance with several resolutions of the General Assembly and the Economic and Social Council. Moreover by its resolution 32/61 of 8 December 1977 the General Assembly reaffirmed the desirability of abolishing capital punishment. At the 1980 U.N. Congress on the Prevention of Crime and the Treatment of Offenders capital punishment and its reduction or abolition will be discussed. To this effect a questionnaire has already been sent to all Member States.

The overview here submitted is the result of 2 years of research which covered more aspects

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than those here considered. Space and time prevent the writer from presenting a more complete panorama of the legal situation of capital punishment but what follows gives a reasonable idea of the extent and practice of that punishment on a world basis. Legal does not always mean legitimate. The distinction is important in many countries.

The Overview

The traditional classification of countries into retentionist, semiretentionist, abolitionist and semiabolitionist is misleading. Some abolitionist countries use nonjudicial forms of capital punishment extensively. In others the death penalty exists for military offences or those assimilated to them whether or not committed in war time. What is perhaps more significant is that in many developing countries chronic national emergency situations, usually decreed by military governments are assimilated to war time conditions and capital punishment either as an alternative or mandatory penalty is frequently imposed. A few countries are legally but not *de facto* abolitionist. Such is the case with Uruguay where capital punishment was abolished but since the 1960's there have been nonjudicial executions. Argentina, traditionally abolitionist, reintroduced it in 1976 but according to reliable sources a sizeable number of the 3,000 "missing persons" have been executed by the police and armed forces. In Peru the Constitution adopted in July 1979 by the Constituent Assembly abolished capital punishment but the General in charge of the government rejected the abolition. The reason given was the "alarming increase of crime in the country." The increase cannot be denied but neither can the fact that it is mostly due to crimes committed under cover of an official or semiofficial position.

In Africa all countries maintain capital punishment, some make frequent use of it and here and there executions are public with the attendance of high public officials. In Kenya, Nigeria, and Zambia, it is mandatory in cases of armed robbery. In the so-called Central African Empire it is automatic for all cases of serious political opposition, murder and armed robbery. In Equatorial Guinea there is no proper penal system and capital punishment is summarily carried out by the National Guard. In Ghana the death penalty is often imposed by military courts with no appeal but executions are gradually being re-

placed by life imprisonment. In Malagasy or Madagascar capital punishment was *de facto* abolished but it has been implemented since 1962 for crimes against the state, provoking civil war, sabotage, and other serious offences. All the Northern African countries retain the death penalty among other cases for offences against the security of the state, subversion, different types of murder and in Algeria also for drug smuggling. In Mozambique capital punishment may be imposed for several offences especially those against the existing regime; the last reported executions took place in April 1979. In Zimbabwe Rhodesia the number of capital offences has been enlarged in the last few years and with them the number of executions. In South Africa judicial executions are more numerous than in many other countries. According to official statistics in 1978, 132 hangings took place. This was regarded as a shameful world record by the Progressive Federal Party and the government promised to introduce legislation to reduce the number.

In Latin America and the Caribbean Region the vast majority of countries are retentionist in different degrees. Among them are Argentina, Brazil, Cuba, Chile, Guayana, Haiti, Honduras, Jamaica, Nicaragua, Paraguay, Surinam, Trinidad and Tobago. In many of these countries the judiciary is politically appointed or submissive. In Paraguay all judges must be active members of the Colorado or government party before being appointed. In Brazil the last reported case of nonjudicial executions took place in Baizada, near Rio, in April 1979. The bodies of 20 known criminal offenders, all of them with clear marks of having been previously tortured, were found.

In the Asian countries capital punishment is still statutory for a number of offences although often as an alternative penalty. In India the number of executions has declined in the last few years. In Iran judicial and nonjudicial executions often took place under the Shah's regime, but under the present one more than 200 persons have already been executed in a few months, most of them sentenced by revolutionary courts and following summary proceedings. Many executions were carried out within a few hours of passing the death sentence. In Indonesia it is not always possible to make a distinction between judicial and nonjudicial executions. In some of the islands national penal legislation is not always taken into account by *de facto* rulers or because the judicial machinery does not exist or is reduced

to a minimum. In Pakistan capital punishment has been widely applied under General Zia's regime. According to reliable information, which was made public in March 1979, no less than 400 persons have been executed in the last year and a half. In Burma it is difficult to ascertain which offences are punishable by death; apparently the provisions of the penal code have been superseded by those of several decrees often mentioned but the text of which cannot be obtained. Apparently plotting against the existing regime and treason are used to execute people sentenced by ordinary or special courts. In Sri Lanka capital punishment was suspended between 1956 and 1959 but reintroduced in 1959 and many of the death sentences refer to laws and regulations dealing with emergency situations. In Vietnam there is no penal system proper and the penal code has been superseded by decrees and decisions most of which are politically motivated. People's courts and committees administer criminal justice and capital punishment is considered necessary to prevent any serious counter-revolutionary activity. No official data about the number of executions are available.

In the socialist countries capital punishment is often officially declared as a temporary extraordinary measure which will disappear as soon as Communism, as the last stage of Socialism, becomes effective. Judging by experience and projections for the future the assertion has only a limited propaganda value. In most of them there is a wide range of capital offences and official data about executions are almost impossible to get. On the other hand military offences, often included in the last section of the penal codes, are seldom punished with death. With some exceptions in all these countries capital punishment is an alternative penalty which is imposed in cases of gravity specifically defined by law.

The USSR and RSFSR penal code, which in different degree has been the model for most of the penal codes of the Republics of the Soviet Union, contains no less than 24 capital offences. Among them are treason, terrorist acts, banditry, disrupting the functioning of correctional institutions, crimes against socialist economy or property, the killing of a policeman or member of the people's guard and murder. Of the latter 10 different modalities are enumerated. The last sen-

tence of death reported by the international press affected four persons accused of having committed an economic offence by misappropriating for personal gain some textiles produced in a state factory. In July 1979 the Supreme Court of Ukraine confirmed the sentence.

In the Democratic Republic of Germany the penal code enumerates 15 cases in which capital punishment or imprisonment up to 15 years may be imposed. The penal code of Czechoslovakia describes 10 capital offences, among them undermining the socialist regime, sabotage, genocide, surrendering military equipment, and murder. All may be punished with long terms of imprisonment or death. In Poland imprisonment up to 25 years or death are the penalties for treason, attempts against the independence of the country, economic crimes, aggravated forms of murder and the killing of a public official or any other person performing officially a political activity or function. In Rumania imprisonment up to 25 years or death may be imposed among other things for offences directed against the national economy, state security and the "undermining of the defence capacity of the country" and in several cases of murder. In Hungary about 25 offences may be punished either with long periods of imprisonment or death. Most of them are similar to those already enumerated. It seems that the present penal code will shortly be replaced by a new one in which capital punishment will be maintained as an alternative sanction.

In China after 1951 under Mao's directives executions were reduced "to the minimum required by revolutionary aims." The penal system proper disintegrated and criminal justice became the function of political bodies or committees at the national, regional or local level. If the political reeducation of the sentenced person was considered feasible the death penalty was suspended for 2 years. If declared reeducated the offender was sent to prison for a certain period of time. Release before its completion was granted in some cases. In 1979 the 1963 draft of the penal code was revised at the second session of the Fifth National People's Congress as part of the group of the *Seven fundamental laws*. Among them three referred to the penal code, the criminal procedure code and the organization of people's courts and people's procurators.¹ The new penal code will enter into force on the 1st of January 1980. Its main purpose is "to combat all counter-revolutionary and other criminal offences by in-

¹ Information about the situation described was provided to the writer partly by the Academy of Juridical Science, Peking, and in a more detailed way by the Embassy of China, London. Detailed information about the three laws here mentioned may be found in *Beijing Review*, Peking, nos. 26, 27 and 28, 1979.

fllicting penalties." Capital punishment "must be passed or approved by the Supreme People's Court." The capital offences described are: grave counter-revolutionary activities against the state and the people, murder, rape, robbery, arson, dyke-breaking, discharging of explosives and poisoning with serious consequences. Reprieve for 2 years is now given in all capital sentences where immediate execution "is not regarded as necessary." By counter-revolutionary offences are understood the acts "undermining the People's Republic of China with the aim of overthrowing the political power of the dictatorship of the proletariat and the socialist system." It should be stressed that the reorganization of the penal system is part of the national development planning of the country which is based on the "Four Modernizations: agriculture, industry, national defence and science-technology."

Although usually limited to military or wartime offences, capital punishment is still retained in most European countries. In Greece it may be imposed for attempts against the integrity of the national territory, treason, provoking war and in some cases of murder. In the Netherlands it was abolished in 1870 and reintroduced in 1943 for war crimes and certain military offences. Denmark abolished it in 1972 except for crimes in time of war. Norway retains it for treason in time of war or national emergency. In Ireland it was abolished in 1964 but kept for certain cases of murder and military offences and in Italy only some military crimes may be punished with death. In Spain the Constitution adopted in 1978 abolished capital punishment except for the cases stated by the military penal laws. In France the reduction of capital crimes is under consideration but the Government has clearly stated that "the abolition of capital punishment must be postponed at least for ten years." The *Avant-Projet de Code pénal, Dispositions générales*, 1978, maintains capital punishment which apparently may be applied as an alternative penalty for certain cases of murder, armed robberies, and kidnapping. The death penalty may be replaced by imprisonment for 25 years. In Great Britain the death penalty was abolished in 1969 and in Ulster in 1973. The attempts to reintroduce it for terrorism and other offences in 1975 and 1979 failed. As a rarity it is maintained in Jersey

where, in July 1979, a person was sentenced to death; the penalty has been commuted.

In Canada capital punishment may be imposed for the offences described by the National Defence Act most of them having a military character and when committed in time of war. In the United States capital punishment is retained in a number of states, some of which had abolished it. The death penalty was held invalid by the Supreme Court as cruel and unusual punishment when applied in a nonuniform and unpredictable way—*Furman v. Georgia*, 1972. In a 1976 decision however, *Gregg v. Georgia*, the Court clarified its previous decision in a 7-2 majority ruling by stating that the death penalty was not necessarily cruel and unusual and that it is not necessarily imposed in an arbitrary and capricious way where the decisionmaking process involved in its imposition is carefully controlled by clear and objective standards aimed at even-handed treatment. A related decision, *Woodson v. North Carolina*, stated that mandatory death sentences are unconstitutional.²

In New Zealand only treason may be punishable with death. In Australia it may be imposed for treason and willful murder in Western Australia, South Australia, and New South Wales.

With the Eastern European socialist countries the Middle East is one of the regions with the largest number of capital offences described by penal codes, special laws or government regulations often referred to in official communications but the text of which is rather difficult to get. In many cases the definitions are politically motivated and worded in such a way that practically any act regarded as inimical to the government may be incriminating. The following examples will suffice. In Syria there are at least 25 capital offences and in some cases the death penalty is mandatory and imposed by military or special security courts, promptly executed and occasionally public with the attendance of high officials. Many of those executed are members of the armed forces, kurdish nationalists and political opponents. Among others the following are capital offences: collusion in any form to commit acts against the regime, incitement to organize public demonstrations or disturbances, propaganda directed against the political system of the country, becoming a member of the ruling party without having first disclosed previous political affiliations to other parties, treason and any activity against the socialist programmes or policies. In Iraq poli-

² See *The U.S. Government, How and Why It Works*, 1978, prepared by the Editors of the *Encyclopedia Britannica*, section 10, and *The Death Penalty*, 1978, Amnesty International, pp. 160-164, in which the abolitionist and nonabolitionist states of the USA are listed. According to the U.N. report on Capital Punishment in 1975 there were 12 abolitionist states in the USA out of 50.

tical security dominates the existing judicial apparatus, mostly military in character. There are at least 22 capital crimes the vast majority of which aim at the penal protection of the existing regime. In some cases the death penalty is mandatory. Many executions take place in a secretive way, particularly with respect to members of the armed forces, kurdish patriots and political opponents. In Jordan there are at least 30 capital offences among which those committed against the monarchic regime, state security, several forms of treason, the sale of property to Israeli authorities, subversion of various kinds, being a member of an illegal party or group and aggravated forms of homicide are the most used. In Israel capital punishment may only be imposed for genocide, crimes against mankind, and those committed against Jewish people during the last world war.

Final Remarks

Although purposely limited, the overview raises many questions.

(a) How many judicial executions take place in the world in a given year? Owing to the scarcity and unreliability of the majority of official data no answer is possible. My own survey clearly shows that there is a marked parallelism between the frequency of executions and the existence of dictatorial regimes either from right or left. The data provided by governments should, as a rule, be subjected to close scrutiny. In the last quinquennial report of the Secretary-General of the United Nations on Capital Punishment, document E/5616 and addenda, 1975, which contains the answers to the questionnaire addressed to all Member States, only 49 or 32 percent replied. During the 5-year period covered by the report only the following countries supplied information about executions: In Belgium, Italy, the Netherlands, and Argentina no one was sentenced to death; in Fiji, Madagascar, and Mauritius all persons sentenced to death had their sentences commuted to long-term imprisonment or hard labour; in Niger 7 men were sentenced to death but all were pardoned and liberated; in Botswana 10 persons out of 18 were executed and the others pardoned; in Rwanda of 120 persons found guilty

of premeditated murder only 13 were executed; in Tanzania of 232 persons sentenced to death only 4 were executed; in Trinidad and Tobago 57 and 47 respectively; in the Bahamas out of 17 death sentences 4 were executed; in Japan 71 persons, 69 men and 2 women were executed; in France 15 persons were sentenced to death but only 3 men executed for premeditated murder; in Kuwait 4 men were sentenced to death and all 4 executed for premeditated murder; in Hungary 24 persons were sentenced to death and 22 executed; in Malaysia 30 and 10 respectively; in Thailand 72 and 21; in Pakistan 2,382 and 150—reference is made here to the larger figure received from no less reliable sources—and in Poland 52 death sentences were imposed but it was stated that the number of those executed was lower.

Only 13 percent of all Member States invited by the Secretary-General to provide data on executions complied. Most of them came from developing countries. Although limited, the data show a frequent disproportion between the number of death sentences and executions. Does this mean that the injustice of capital punishment is so patent that commutation was regarded as a way to reduce it without losing face? In any case the correlation between the number of capital offences, executions, commutations and the abuse of political power is undeniable in many countries. When should such abuse be regarded as criminal?²

(b) Which are the really abolitionist countries? The United Nations report already cited lists 135 countries out of which, with the necessary corrections since it was published in 1975, the following may be regarded from a legal point of view as abolitionist; Austria, Colombia, Costa Rica, Dominican Republic, Federal Republic of Germany, Ecuador, Finland, Iceland, Panama, Sweden, Uruguay and Venezuela. With the exception of Costa Rica the situation in the other Latin American countries as far as nonjudicial executions are concerned deserves further scrutiny. Suffice it to say that judicial executions cannot always be regarded as such if the expression is properly understood. In Uruguay according to well attested sources not less than 40 nonjudicial executions took place between 1973 and 1977, all of them carried out by the police and military forces. To that figure should be added "missing persons" the number of which cannot be ascertained but which is considerable according to data published by several human rights

² The correlation between crime and the abuse of power was discussed by the Ad Hoc Group of Experts chaired by the writer, convened by the United Nations, New York, July 1979. The report will be used by the Secretariat in the preparation of its report on *Crime and the Abuse of Power: offences and offenders beyond the reach of law*, which is the third item on the agenda of the 1980 Congress.

organizations. In Venezuela the Constitution not only abolished capital punishment but forbids any authority to carry out any execution. Yet, in the last few years according to reliable data more than 200 professional criminals have been executed by the Judicial Technical Police most of them in the metropolitan area; this service is now undergoing a full reorganization.

(c) According to the writer's survey there are all over the world no less than 700 legal definitions of capital offences out of which about 300 refer with variations to crimes against the security of the state which usually is identified with that of the regime in power; the overthrowing of the government, undertaking subversive activities, attacks against national security, undermining the defence capacity of the country, resisting a member of the armed forces or equivalent, leading a plot with the purpose of seizing power, conspiring with a foreign country, agency or party, antistate organization or resistance, consorting with opposing political parties, espionage, sabotage, insurrection, acts contrary to the existing political leadership and terrorist acts. As stated many of these offences are defined in such an elastic way that under political pressure ordinary or special courts, the latter often having a military character, have no difficulty in incriminating as capital offences what in many cases constitutes the legitimate exercise of individual or collective human rights.

(d) Contrary to still current assertions, deterrence, and readaptation or correction—in the socialist countries reeducation—should not be regarded as the purpose of criminal law. Its aim is social criminal justice free from any particular ideology. By itself the penal system cannot deter everybody, offender or not, without cooperation from other social, economic, political, cultural, and religious factors. The same applies to readaptation and the like. Deterrence is in many ways part of the whole social fabric. The suppression of the penal system because it does not deter

or reform everybody and crime is still increasing is as justified as the suppression of traffic regulations or of medical services because traffic accidents are increasing and illness has not disappeared.

(e) In formulating criminal policy public opinion should not be ignored but neither should it be the guiding element. If public opinion had been the determining factor in the formulation and implementation of criminal policies we should be in many respects as we were centuries ago. In some developing countries between 50 and 70 percent of the population are illiterate, have an annual per capita income below \$400 US and more often than not are subject to dictatorial regimes. In the developed countries the cultural and economic levels are far higher but as a rule the image of crime is distorted or reduced to conventional crime, i.e., to crime committed mostly by the "poor devil." The more developed a country is the greater is the impunity of those committing many forms of nonconventional, particularly economic, crimes. In the socialist countries political crime from above is far more frequent and serious than that committed from below; and

(f) For reasons which I have examined elsewhere, crime has always been a sociopolitical phenomenon and capital punishment increases it as a result of vicious circles of repression and counter-repression so frequent in many countries. In this respect it should be remembered that out of 152 Member States—at the moment of writing—barely 30 percent have authentic democratic regimes. This partly explains the number of judicial and nonjudicial executions and their world distribution. The vicious circle can only be broken at the national and international level by the planning of criminal justice systems in accordance with the goals of the United Nations and Specialized Agencies in which respect for human rights plays a primary role.

CAPITAL PUNISHMENT is a serious matter—one which calls for patient, thoughtful, and systematic study and decisions reached judiciously and with painstaking care.—JAMES A. McCafferty

The Ex-Offender and the "Monster" Myth*

BY EDWIN I. MEGARGEE, PH.D., AND BARBARA CADOW
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IN A NATIONALLY syndicated newspaper column dispassionately headlined "Prisons produce monsters," Sidney J. Harris recently asserted, "Most offenders get worse in prison, and the longer they are locked up, the worse they get . . . They learn more about crime in prison . . . They are more bitter, more resentful, more vengeful, more vicious when they get out than when they went in . . . Lengthy punishment . . . turns out monsters where we sent in men!" (Harris, 1978).

Harris is not alone in his viewpoint or in his use of strong language. Karl Menninger, referring to prisons as ". . . infernal machines for grinding up a minority of easily caught offenders . . ." stated, "I suspect that all the crimes committed by all the jailed criminals do not equal in total social damage that of the crimes committed against them" (1968, pp. 28 & 89). Ramsey Clark, who as Attorney General of the United States was responsible for the Federal Bureau of Prisons, wrote, "Jails and prisons in the United States today are more often than not manufacturers of crime" (1970, p. 213). R.L. Goldfarb (1974, p. 20), describing prisons as "self-defeating concrete," has concluded, ". . . our prison system does not work."

Although Meunier and Schwartz (1973), describing the New York State Department of Corrections, ventured the opinion that correctional rehabilitation in that state could not be judged a failure because it had never been tried, Martinson maintained, "*With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism*" (1974, p. 25, italics in the original) and Maier (1976, p. 130f) concluded, "Corrections do not correct, reformatories do not reform. No matter what kind of program we institute, recidivism remains high."

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As psychologists, the present investigators are skeptical whenever anyone asserts that any form of human experience has universally detrimental or beneficial results. Whether it be love, motherhood, education, or self-awareness on the positive side, or poverty, debilitating illness, or war on the negative, we feel it is almost axiomatic that not all individuals who experience a particular condition are affected in the same way. For many social scientists, however, imprisonment appears to be an exception to this general rule, a condition that cannot possibly benefit anyone and harms virtually everyone who experiences it.

Except for anecdotal accounts, such as those cited by Menninger (1968), there is little empirical evidence on the effects of imprisonment. Recidivism rates are the most frequently cited measure, but all-too-often recidivism has been calculated by counting the number of people in correctional institutions who have had previous convictions or incarcerations. Such a procedure inevitably exaggerates the amount of recidivism, since the failures accumulate behind the walls while the successes, if any, do not remain in the institution to be counted. Longitudinal studies typically show that, contrary to popular belief, approximately two-thirds of those who leave prison never return (Glaser, 1964).

Recidivism, however defined, is, of course, an imperfect measure of the effects of incarceration. Not only is it subject to all the vagaries of the criminal justice system's inability to apprehend, convict, or incarcerate every person who engages in criminal behavior, but it also depends on many situational factors that are not influenced by prison authorities' efforts at rehabilitation. Skills and attitudes learned in prison certainly influence a released offender's propensity to engage in further criminal acts, but so do the availability of employment, family support systems and community resources. Indeed, interactionist theory maintains the latter factors are even more important than personality patterns. For this reason, to test Harris' assertion that offenders are more depraved upon leaving prison than when they entered, empirical comparisons of personality functioning and attitudes before and after

incarceration are also required. In addition, it seems reasonable that some light could be shed on the subject by simply asking those who know best—incarcerated felons about to be released—to evaluate the effects of imprisonment.

Rationale

The purpose of the present studies was to evaluate the effects associated with imprisonment on a cohort of youthful offenders who were admitted to the Federal Correctional Institution (FCI) at Tallahassee, Florida, during a 2-year period. The first study reports the result of structured interviews with offenders about to be released. The second compares the personality test scores for inmates upon entry and upon release. The third study reports the subsequent rates of rearrest, reconviction, and reincarceration for the cohort.

The data for these investigations were drawn from a larger longitudinal study being conducted by the first author at the Federal Correctional Institution, Tallahassee, Florida, a medium security institution which, when these data were collected, had a resident population of approximately 550 male youthful offenders, most of whom were from the Southeastern United States. For a 2-year period from November 3, 1970, until November 2, 1972, all incoming prisoners became members of the research cohort; 64 percent of the 1,345 men admitted were white, 35 percent were black and 1 percent were American Indians. Their ages ranged from 18 to 29 with a mean of 22.5. Their mean Beta IQ was 101, and the highest grade level attained averaged 9.9.

The vast majority had been convicted of crimes against property, 39 percent for interstate transportation of stolen property or contraband, 16 percent for various types of larceny, 13 percent for fraud or misrepresentation, 13 percent for violation of Federal liquor or drug statutes, 10 percent for possession of contraband such as illegal firearms or counterfeit money, 4 percent for violation of the Selective Service Act, 3 percent for crimes against persons, and 1 percent for other miscellaneous offenses.

In the first 2 weeks after admission, the newly arrived inmates were administered an extensive battery of ability, achievement, interest and personality tests, including the Minnesota Multiphasic Personality Inventory (MMPI) and the California Psychological Inventory (CPI), as part of the routine admissions procedure. Later they were interviewed and evaluated by FCI psychol-

ogists and their case histories, as reported in the presentence investigation reports, were coded and rated.

During their incarceration the men had various work assignments, including on-the-job training, vocational education and Federal Prison Industries. Most participated in educational programs aimed at acquiring the G.E.D. or college credits. A variety of group counseling and therapy programs were available, including specialized drug and alcohol treatment programs. Individual psychotherapy with the six staff psychologists could also be arranged in selected cases. Throughout their incarceration the subjects were regularly rated on various scales of behavior, attitudes, and adjustment by custodial personnel, teachers, and work supervisors, and a record was maintained of incident reports, illnesses, educational progress and the like.

Until data collection ceased in June 1974, all those men scheduled to be paroled or released from the FCI, as well as many who were being transferred to other Federal institutions to complete their sentences, were asked to participate in a confidential structured prerelease interview with a member of the research project staff. A second battery of personality tests including the MMPI and CPI was also administered at this time. Study One is based on the portion of the structured interview in which the men were asked to evaluate their correctional experience and its effects. Study Two compares their intake and exit personality test scores and their global test profiles.

In July 1976, 2 years after data collection at the institution ended, the fingerprint arrest records of the National Crime Information Center (NCIC) were searched for all the men in the cohort who had been released from custody. Of the 1,345 men in the original cohort, 1,148 were identified in which NCIC records contained sufficient information to allow a determination of recidivism to be made; 1,011 satisfied our requirement of having been released to the community no less than 18 months earlier. Study Three reports their subsequent recidivism.

To test the effects of imprisonment according to strict principles of experimental design, it would have been necessary to compare this research cohort with an equivalent control group that was evaluated and observed at similar intervals without being incarcerated. Convicted criminals placed on probation would have been

the most logical group, but even if this could have been arranged, selective bias would have inevitably confounded any comparisons since Federal judges were not about to sentence convicted felons to prison or probation on a random basis to satisfy the requirements of an experimental design.

Using each man as his own control is less satisfactory since aging and incarceration are inevitably confounded in any "before and after" comparison. Similarly, the effects of rehabilitation efforts cannot be isolated from the effects of imprisonment per se. Nevertheless, an own-control design should permit a rough estimate of overall improvement or deterioration. If it is true, as Harris (1978) concluded, that a prison inevitably, "... turns out monsters where we sent in men," such an effect should be evident in personal interviews, the general deterioration of tested personality functioning, and in high rates of rearrest, reconviction, and reincarceration.

STUDY ONE: INMATES' EVALUATION

In this age of consumerism, millions of dollars are spent annually in market research evaluating consumers' opinions of virtually every aspect of any product imaginable, from the hardness of floorwax to the softness of toilet tissue. Although voluminous data have been collected on the relative brightness of teeth, hair, glassware and sheets, we have no systematic consumer evaluations of the effects of imprisonment, despite the fact that taxpayers spend over four billion annually on corrections. Although this is only a fraction of what is spent on tobacco, liquor, or cosmetics, nevertheless, one would suppose that someone would have long since polled the consumers of the correctional product and asked them for their evaluation of its effects. Instead, we have had to rely on the opinions of various "authorities" and the unsolicited "testimonials" volunteered by ex-offenders ranging from George Jackson to Charles Colson. The purpose of the first study was to obtain a somewhat broader and more systematic sample of offenders' opinions regarding the Federal Correctional Institution at Tallahassee.

Method

Sampling

Of the 1,345 men who entered the FCI during the 2-year period while the cohort was being formed, approximately 1,214 participated in the

longitudinal research project. The 131 who were not included were mostly short-timers who would be released within 2 or 3 months, unsentenced prisoners committed by the courts solely for study and observation, and men who were scheduled to be transferred immediately to other institutions.

Many of the inmates who had entered the institution and participated in the intake evaluation procedures were not available for the pre-release phase; these included inmates who were transferred to other institutions or hospitals on short notice, men who were returned to court on writs or appeals, men who were confined in the cell house prior to departure, and, of course, those who escaped. When sufficient notice of an impending release was given by the authorities, every effort was made to interview those returning to the community; those being transferred to other institutions were also evaluated insofar as project resources permitted. Prerelease interviews were obtained from 643 men.

Whereas the intake testing and evaluation was conducted by FCI staff members as a routine part of the prison program, the prerelease interview and testing was voluntary and conducted by research project personnel. Inmates asked to take part in the prerelease interview and testing program were assured that their responses would be kept confidential and not communicated to prison authorities. Most welcomed the opportunity to talk about their prison experiences and make suggestions as to how the institution should have been run. Less than 2 percent of the men asked to participate in the exit interview declined to participate.

Instrument

The structured prerelease interview was devised for the present project by the senior author in collaboration with graduate assistants and with the help of FCI inmates. In the pilot phase, unstructured clinical interviews ranging over a number of topics were held with several inmates. Then the pilot subjects were asked to suggest questions that should be rephrased or deleted and other areas that needed to be covered. In this fashion a structured interview schedule was devised consisting of open-ended questions and followup probes inquiring about each man's reactions to leaving the FCI, his plans for the community, his overall opinions on the FCI, its staff and procedures, followed by his opinions of specific FCI educational, treatment and recreational programs. These queries always included

his opinions of what was best about a specific program and should be retained and what was worst about it and should be changed, as well as his estimate of the program's effects on him personally.

Procedure

The final version of the exit interview was administered within a few days of each inmate's scheduled departure. In the 4 years that data collection continued at the FCI, it became regarded by inmates as akin to a graduation ceremony and many came by the laboratory in the weeks prior to their departure to make sure they would have the opportunity to participate. All interviews were tape recorded and later coded and rated by trained judges.

The present study focused on the answers to the following questions which were scattered through the middle portion of the interview:

(1) Do you think you've changed any since coming here? How?

(2) What made you change?

(3) Do you think prison "rehabilitates" most men?

Later in the interview, each man was asked to describe and evaluate his work assignment and those programs in which he had participated including educational and vocational training, Federal Prison Industries, group therapy or counseling, individual psychotherapy, the religious program and "extracurricular" activities such as Jaycees or Toastmasters. Included in each was some question such as, "What do you think of the industries program?" or "Do you think group therapy will make it easier to stay out?"

Results

When asked if they had changed since coming to the FCI and, if so, how, 540 men (84%) said they had changed for the better, 56 (9%) felt they had not changed, and 47 (7%) indicated they had changed for the worse. Of the 540 men who reported positive changes, 30 percent indicated they had learned things about themselves and others, 50 percent stated they had matured, "developed a better attitude," or became more responsible, and 20 percent reported improved behavioral controls and less impulsivity.

The vast majority of these inmates did not attribute these changes to the institution's treatment or educational programs. When asked, "What made you change?", 22 percent replied that prison had given them time to think, 12

percent said "just being here," 10 percent indicated they had changed themselves, 9 percent said the other inmates were responsible, and 5 percent cited the effects of imprisonment on their families. Less than 10 percent attributed personal change to the influence of staff members or to the education or treatment programs. When asked whether they felt prison "rehabilitates" most men, 78 percent said, "No."

Although most of the inmates interviewed did not credit the prison's programs with producing positive *personal* changes, many inmates did report that these programs had been beneficial. The educational and vocational training program was the most highly regarded, with 88 percent of the 504 men who had participated indicating they felt it would help them stay out of prison. Federal Prison Industries, a profit-making enterprise in which the men had a chance to earn money for their families or the future, was the next most highly regarded program, with 75 percent of the 305 participants evaluating it favorably. The inmates' opinions of the various treatment programs were remarkably similar; 53 to 57 percent of the participants in group therapy and counseling, individual psychotherapy, the religious program, and the "extracurricular activities" programs felt they were beneficial. In contrast to the above, 57 percent felt the jobs to which they had been assigned in the prison would have no value in aiding their community adjustment.

About 13 percent of the men were negative and hostile toward the staff and 5 percent were extremely, probably excessively, favorable. Most fell between these extremes, 31 percent were neutral and 51 percent moderately favorable, indicating, in effect, that, although there were some "losers" on the staff, most were fair and trying to help. Overall, 60 percent of the inmates reported the FCI was a place where one did "easy time" and 20 percent felt it was a place one did "hard time"; the remaining 20 percent fell between these extremes.

Discussion

The FCI is a medium-security prison with tight perimeter security consisting of high double fences topped with barbed wire, and four gun towers. These guns were used on several occasions while the research project was in operation, and the perimeter control was augmented by the addition of rolls of ground control wire between

the fences to thwart a rash of escape attempts, one of which ended in a prisoner being killed. In short, although it was treatment oriented, the FCI was a "real prison."

Within the institution the atmosphere was considerably more relaxed. The men lived in open dormitories surrounding a grassy quadrangle and there was relatively free movement around the institution. Recreational facilities included tennis courts and a miniature golf course in addition to the inevitable weight lifting and basketball courts. Although there were notable exceptions on both sides, the general attitude between staff and inmates could be described as one of reasonable respect and moderate cordiality as long as neither staff member or inmate moved too far beyond his generally-agreed-on roles.

Given this overall atmosphere, the present investigators are inclined to accept the most parsimonious explanation of the interview data, namely that by and large the inmates were truthfully reporting their attitudes and feelings upon leaving the FCI. Certainly every effort was made to encourage frankness. Specially trained student interviewers who were not connected with the FCI in any way were used and the men were assured of confidentiality. The interviews were held in the FSU Research Area which was recognized by all as being separate from regular prison operation. Moreover, they knew that nothing they said could alter the fact that they would be leaving the FCI within the week.

If the men had, in effect, paraphrased Johnny Cash's song "San Quentin" and said, "FCI's been living hell to me," it is unlikely that any of the authorities who have written so devastatingly of the effects of imprisonment would question the authenticity of these data. Given the fact that their actual responses were more benign, alternative explanations will no doubt be offered.

One such alternative is that most of the respondents were concealing their true feelings and lying to curry favor with the interviewers. While this may have been the case with the 5 percent who effusively praised the staff, we do not feel that this was true for the vast majority. The stated purpose of the interview was to help make the FCI a better place for those who might follow them, and most men seemed to take this task seriously. This was the inmates' chance to be heard, and they were generally frank, pointing out changes they felt should be made and identi-

fying correctional personnel they felt were harsh or unfair.

Cognitive dissonance theory would predict that having unwillingly invested a significant portion of their young lives in serving a prison sentence, these men would have a need to regard this experience as being beneficial rather than wasted. Thus, their responses could have been honest expressions of feelings that were more positive than normal because of their imminent departure.

Some might suggest selective sampling bias or prerelease optimism as factors. After all, those being paroled should be the "cream of the crop," and not representative of the general inmate clientele. Similarly, being about to return home, they may have seen the entire world, including the FCI, through rose-colored glasses. These factors alone cannot account for the findings. Of the 734 inmates interviewed, only 283 (39%) were going directly home on parole; 149 (20%) were being released on expiration of sentence, not having been granted parole, 141 (19%) were being transferred to community treatment centers or halfway houses prior to parole, 75 (10%) were being released or paroled to face detainers from other agencies for other alleged offenses, 61 (8%) were being transferred to other institutions to continue their sentences, and 25 (3%) were interviewed at the end of the project with no release date yet in sight.

Other *post hoc* explanations can no doubt be invented. Nevertheless, the fact remains that when an honest attempt was made to interview all those about to leave the FCI and provide them with an opportunity to evaluate the institution and its effects on them, the inmates' appraisals were considerably less negative than one would expect from those exposed to the "... infernal machines for grinding up ... offenders" that Menninger described.

STUDY TWO: COMPARISON OF INTAKE AND EXIT PERSONALITY TESTING

Comparison of intake and exit personality test scores offers a more objective and quantitative gauge of the direction and the degree of the personal changes experienced by the FCI subjects than the rather crude self-appraisals elicited by the exit interview. In this study changes, from the beginning to the end of imprisonment at FCI were determined by comparison of mean scores on the 14 MMPI and 18 CPI scales using an own-control design and by blind clinical comparison

of each individual's intake and exit MMPI and CPI profiles.

Method

Sampling

Those men who had participated in the exit interview were asked to return for subsequent sessions in which the MMPI and the CPI as well as other tests would be administered. Understandably, this was a less popular procedure than the interview, and not all those who participated in the interview agreed to take the MMPI or the CPI. The time immediately prior to departure was a hectic one for most inmates so time constraints also made inroads on the exit-testing samples.

To be included in the MMPI phase of the present study, an inmate had to have produced valid MMPI profiles on both intake and on departure. The same basic rule, valid profiles on both intake and departure, held true for the CPI. Validity was determined by the clinical inspection of the overall profile by the first author.

Since this study was aimed at determining the nature and degree of change from beginning to the end of incarceration at the FCI, this study was further limited to men who arrived at the FCI from the courts to begin their present sentences. Those inmates who were transferred to the FCI from other correctional institutions at which they had already served part of their sentences were excluded.

The resulting samples were thus comprised of 449 men (292 whites and 157 blacks) for the MMPI and 368 men (190 whites and 78 blacks) for the CPI phase.

Procedures

The standard group form of the MMPI and CPI were administered as a routine part of the intake testing battery during the first 2 weeks after entry into the institution. Those with reading difficulties were tested on the MMPI (but not the CPI) using a tape recorded list of questions. A Spanish edition of the MMPI was also available for Hispanic subjects.

The prerelease testing was carried out individually by project personnel with inmates who were scheduled to leave the FCI within the next few days. Those men who had completed the exit interview were asked to return for the testing procedures. (The exit tests were thus subject to the same selective biases as the exit interview,

except being inherently duller and more tedious, somewhat greater motivation was required.) The inmates knew the intake testing would influence their classification and prison program, whereas the exit tests would have no effect whatsoever on their future, so they were probably somewhat freer to respond frankly on the exit than on the intake test battery.

Data Analysis

The first procedure was to compare mean scale changes on intake and departure, using repeated measures analyses of variance. These analyses were done separately by race because earlier research had demonstrated that blacks and whites tend to score differently on several scales (Caldwell, 1959; Costello, et al., 1973; Davis, 1975; Elion and Megargee, 1975; Gynther, 1972; Murphree, et al., 1962; Stanton, 1956).

Next, each inmate's intake and exit MMPI profiles were plotted on the same profile sheet. On a random basis, one was labeled "A," and the other "B." The first investigator compared the two profiles and judged whether (1) A was better than B, (2) B was better than A, or (3) there was no discernible difference. The second investigator then determined which was the intake and which the exit profile. If it turned out that the healthier profile was the exit, improvement was evident. If the better profile was the intake, it was concluded that the inmate had worsened. The same procedure was followed for the CPI.

The second author also rated 5 percent of the profiles from each test as a reliability check, resulting in 91 percent agreement on the MMPI and 90 percent agreement on the CPI.

MMPI

The results of the repeated measures analyses of variance for the white and black subjects MMPIs are presented in table 1. For the whites, a significant increase from intake to exit was found on scale K and significant decreases on scales D, Hy, Pt, and Si. For the blacks, significant increases were found on scales L, K, and Mf and significant decreases on scales D, Pd, and Pt.

For both races, the data indicated general improvement. Both whites and blacks were tested as having significantly more ego strength and maturity upon leaving (K), as being less depressed and anxious (D and Pt), and most important, as being significantly less inclined toward antisocial and criminal behavior (Pd). In addition, the whites were tested as being less socially

TABLE 1.—Means and Standard Deviations of MMPI Test Scores Upon Entering and Leaving Prison for Whites and Blacks (T-Scores)

Scale		Whites (N=292)		Blacks (N=157)	
		Entry	Exit	Entry	Exit
L	$\bar{X}$	52.54	53.28	54.77	57.05**
	SD	8.89	7.96	8.58	8.94
F	$\bar{X}$	62.54	63.97	70.18	71.16
	SD	16.58	17.91	19.66	20.63
K	$\bar{X}$	54.56	56.00**	53.73	56.22*
	SD	9.55	9.42	9.09	8.98
Hs	$\bar{X}$	56.14	55.04	61.84	61.41
	SD	11.89	11.02	12.79	13.91
D	$\bar{X}$	61.54	57.53**	66.32	63.72*
	SD	12.23	10.45	11.41	11.55
Hy	$\bar{X}$	59.29	57.49*	60.79	59.73
	SD	9.67	8.88	9.77	10.12
Pd	$\bar{X}$	72.49	70.36*	73.07	71.72*
	SD	10.83	9.62	10.32	10.77
Mf	$\bar{X}$	58.83	58.19	58.32	60.09**
	SD	10.27	10.55	8.96	8.35
Pa	$\bar{X}$	60.49	59.42	64.26	63.36
	SD	12.09	10.82	14.58	14.19
Pt	$\bar{X}$	61.88	57.96**	65.49	62.28*
	SD	12.43	10.98	12.47	11.91
Sc	$\bar{X}$	64.92	64.27	73.32	72.19
	SD	17.03	16.75	18.23	19.57
Ma	$\bar{X}$	65.97	65.98	69.49	69.62
	SD	11.20	10.95	10.96	10.29
Si	$\bar{X}$	51.89	50.97**	52.72	52.45
	SD	9.48	8.31	7.48	6.74

* $p < .05$
 ** $p < .01$

isolated (Si), less inclined to use neurotic defenses such as repression and somatization (D and Hy), and as being somewhat more responsible and mature (Hy and Pd). The blacks tended to be more defensive (L and K) and less oriented toward the traditional masculine stereotype (Mf).

CPI

On the CPI, the whites had significant increases on scales Do, Sy, Sp, Sa, Ie and Py and significant decreases on scales Re, So, Cm, and Fe. The blacks had significant increases on Sp, To, Ai, Ie, and Py and had no significant decreases. The data thus indicated that both racial groups improved in their interpersonal relations and in their ability to relate to others, with the whites showing more improvement in this area than the blacks. Both groups also showed improvement in their intellectual functioning and their ability to achieve and to think for themselves, becoming less rigid and more receptive to new ideas, with the blacks showing more improvement than the whites in this area. In all the areas mentioned thus far, the absolute values of the mean scores indicated that the samples were still somewhat below aver-

TABLE 2.—Means and Standard Deviations of CPI Test Scores Upon Entering and Leaving Prison for Whites and Blacks (T-Scores)

Scale		Whites (N=190)		Blacks (N=78)	
		Entry	Exit	Entry	Exit
Do	$\bar{X}$	44.99	46.41*	44.89	46.00
	SD	12.65	12.05	10.05	9.63
Cs	$\bar{X}$	45.63	46.48	44.07	45.07
	SD	11.98	10.56	10.08	9.28
Sy	$\bar{X}$	47.72	48.38*	47.26	48.06
	SD	11.24	10.62	10.03	10.02
Sp	$\bar{X}$	50.89	53.63**	46.15	48.18*
	SD	11.38	11.08	10.85	9.29
Sa	$\bar{X}$	52.31	53.94**	52.31	52.36
	SD	10.24	10.15	10.14	9.30
Wb	$\bar{X}$	42.56	41.74	32.83	35.84
	SD	16.57	17.23	18.84	17.32
Re	$\bar{X}$	35.08	33.27**	32.54	32.81
	SD	13.16	11.69	11.13	9.93
So	$\bar{X}$	35.46	35.09*	37.22	38.17
	SD	11.50	10.17	10.17	9.40
Sc	$\bar{X}$	48.41	48.10	47.11	48.59
	SD	11.23	10.87	10.15	9.73
To	$\bar{X}$	41.35	42.51	33.15	37.07*
	SD	13.51	12.44	10.94	10.90
Gi	$\bar{X}$	49.94	49.70	50.94	52.27
	SD	11.49	10.86	9.66	10.10
Cm	$\bar{X}$	45.19	38.31**	33.86	31.51
	SD	16.65	20.45	21.74	22.29
Ac	$\bar{X}$	42.41	43.03	41.13	42.86
	SD	13.63	12.82	12.09	11.99
Ai	$\bar{X}$	46.75	48.52	41.23	43.93*
	SD	12.06	12.24	10.28	10.94
Ie	$\bar{X}$	40.31	41.94*	33.21	36.89*
	SD	15.04	14.75	12.28	13.16
Py	$\bar{X}$	49.80	52.89**	47.59	49.63*
	SD	9.95	9.04	9.92	8.54
Fx	$\bar{X}$	50.93	51.83	46.89	49.67
	SD	11.25	11.79	12.08	12.26
Fe	$\bar{X}$	49.71	48.57*	55.34	54.36
	SD	9.42	8.86	8.21	8.53

* $p < .05$
 ** $p < .01$

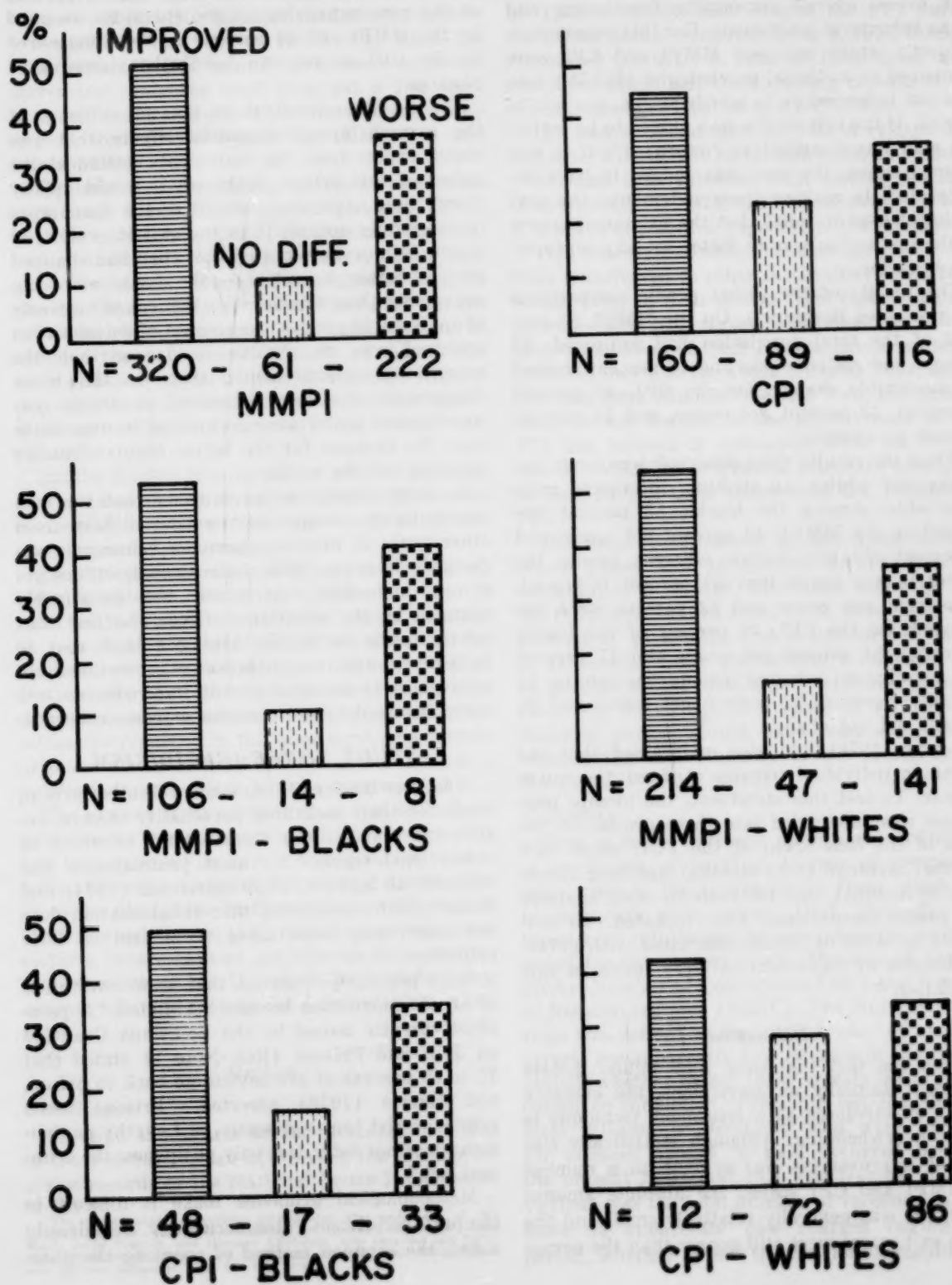
age at the end of their imprisonment, but not as much so as they had been at the outset.

The primary difference between the white and the black samples was that the whites had significant decreases in the scales reflecting internalization of and conformity to conventional values and mores (Re, So and Cm), whereas the blacks did not change significantly in these areas. These latter changes provide some support for the notion that imprisonment had a criminogenic influence on the whites but not the blacks.

Profile comparisons

In actual clinical useage, the MMPI and CPI are interpreted as a whole. Only by seeing the

FIGURE 1.—Tested Personality Changes Over the Course of Imprisonment



total configuration of all the scales can the clinician assess overall personality functioning and make behavioral predictions. For this reason each subject's intake and exit MMPI and CPI were compared by a clinical psychologist (E.I.M.) who was not informed as to which profile was intake or exit. If the exit profile was judged to be better, the man was classified as "improved"; if it was deemed worse, the man was judged to have deteriorated. In making these judgments, the psychologist kept in mind that the primary purpose of the institution was to foster socially conforming behavior.

The results of the global profile comparisons are presented in figure 1. On the MMPI, 53 percent of the total population had improved, 37 percent had gotten worse and 10 percent showed no discernible change. On the CPI, 43 percent improved, 32 percent got worse, and 24 percent showed no change.

When the results were analyzed separately for blacks and whites, no striking differences were observable. Among the blacks, 53 percent improved on the MMPI, 40 percent got worse and 7 percent did not change, whereas among the whites it was found that 53 percent improved, 35 percent got worse and 12 percent were unchanged. On the CPI, 49 percent of the blacks improved, 34 percent got worse and 17 percent did not change, whereas among the whites 41 percent improved, 32 percent got worse and 27 percent did not change.

Harris (1978) had also maintained that the longer an individual remains confined, the worse he gets. To test this statement, the inmate population was subdivided into three groups on the basis of the time spent at the FCI: short (3-9 months), average (9-15 months) and long (more than 15 months), and the scale by scale analyses and profile comparisons were repeated. No consistent patterns or trends associated with different lengths of incarceration were found in this population.

Discussion

Given the fact that over four billion dollars are spent annually on corrections, the evidence for its effectiveness as a treatment technique is hardly overwhelming. Although statistically significant improvement was evident on a number of MMPI and CPI scales, the absolute amount of change was generally relatively small and the mean exit scores were still poorer than the norms

for the general population. With only 53 percent of the men improving on the functions assessed by the MMPI and 43 percent on those measured by the CPI, prison can hardly be viewed as a panacea.

On the other hand, there was no evidence of the overwhelmingly negative effects that one would expect from the statements quoted at the outset of this article. Although it would appear from these objective data that the men were being unduly optimistic in the exit interview, in which 84 percent reported that they had changed for the better, nevertheless there was more improvement than deterioration evident in both sets of analyses. Moreover, the amount of deterioration observed was no greater in degree than the amount of improvement; that is, the mean changes for the worse observed on a few personality test scales were no greater in magnitude than the changes for the better observed in the majority of the scales.

In short, there was no evidence that the men who entered emerged as "monsters." Like most other types of human experience, some men apparently improve while incarcerated, others get worse, and still others are not measurably changed by the experience. Given the fact that rehabilitation is rapidly taking a back seat to punishment and incapacitation as correctional objectives, it is reassuring that improvement was nevertheless the most common outcome observed.

STUDY THREE: RECIDIVISM

Whatever the inmate-consumers think of prison, whatever their measured personality change, recidivism remains the fundamental criterion of correctional success for most professionals and virtually all laymen. When Martinson (1974) and Maier (1976) concluded that rehabilitation does not work, they were using recidivism as their criterion.

It is popularly believed that over two-thirds of those imprisoned become recidivists. A pamphlet recently issued by the Louisiana Coalition on Jails and Prisons (Ref. Note 1) stated that 70 to 80 percent of ex-convicts go back to prison, and Harris (1978) asserted, "Prisons breed crime, as dirt breeds disease . . . Lengthy punishment does not deter, but only postpones, the criminal act."

Methodological problems make it difficult to compute recidivism rates accurately. As already noted, the common method of counting the num-

ber of inmates in a correctional institution who have served previous terms of confinement greatly overestimates the rate of recidivism, since the failures accumulate behind bars, receiving ever-increasing sentences until they get a life term as a habitual criminal, while the successes disappear from prison population (Blumstein and Larson, 1971).

The only accurate way to determine recidivism is through longitudinal studies (Glaser, 1973), but these, too, have their drawbacks. Most followup studies are based on parolees, whose progress is routinely observed and evaluated by their parole officers. This procedure probably underestimates recidivism since it is based on a select sample; the subsequent offenses of those who were released on expiration of sentence without making parole (and are, therefore, not supervised or evaluated routinely) are rarely calculated.

Studies limited to a particular state or jurisdiction can also underestimate recidivism. Those who commit offenses in another area may be erroneously regarded as successes.

Recidivism research is also plagued by definitional problems. Should an ex-offender who is returned to prison for a technical parole violation be regarded as a recidivist? What about an individual who is arrested but not convicted of further offenses? Should a former inmate who commits a serious offense immediately after his release be regarded in the same light as a former prisoner who is arrested for a minor offense a number of years after he was incarcerated?

The present study attempted to deal with these problems by using an entire cohort whether they had been released on parole or expiration of sentence, by using national fingerprint arrest data from the files of the National Crime Information Center, which attempts to record all arrests, convictions, incarcerations and releases from institutions throughout the United States, and by using several different operational definitions of recidivism.

Method

Sampling

Through the efforts of the Research Division of the Federal Bureau of Prisons, the fingerprint arrest records of the National Crime Information

Center (NCIC) were assessed in July 1976 for all 1,345 men who had entered the FCI during the 2-year period from November 3, 1970, through November 2, 1972.¹ A total of 1,008 cases were identified which met the following criteria:

- (1) were identified in the NCIC files
- (2) had sufficient data so that a release date and determination of recidivism could be recorded
- (3) had been released from custody no later than January 1, 1975, thereby allowing at least 18 months of potential exposure to the community.

This research sample included men who had been transferred to other institutions or halfway houses prior to their release from custody as well as men who had served additional state time after completion of their Federal prison sentence, provided they met the above criteria. Thus, unlike the data from Studies One and Two, the present study is not limited to the effectiveness of the FCI but instead is concerned with the overall rate of recidivism of Federal prisoners who spent at least part of their sentence at the Tallahassee FCI.

The mean time served by the 1,008 men in Study Three was 14 months with a standard deviation of 9 months. The mean followup time for these men ranged from 18 to 67 months with a mean of 43 months and a standard deviation of 11 months. Since the literature indicates that 83 percent of the individuals who are going to recidivate do so within 2 years of release, this followup period should have been sufficient to identify the vast majority of the recidivists in the sample (Frank, 1970).

Procedure

Over a dozen different operational definitions of recidivism of varying degrees of complexity were used in the larger study from which the present data were drawn (Ref. Note 2). The three most intuitively obvious measures were selected for the present study, Number of Arrests (NA), Number of Convictions (NC) and Number of Reincarcerations (NINC). The Number of Arrests was defined as the total number of recorded arrests for apparently new offenses in the critical period, whether or not these arrests led to prosecution or conviction. (This did not include subjects released to detainers who were arrested for offenses alleged to have occurred prior to the present incarceration.) The Number of Convictions was the total number of recorded convictions on apparently new charges during the period, whether or not the conviction resulted in

¹ The investigators gratefully acknowledge the assistance of the research staff at the Federal Bureau of Prisons, especially John Wash, Jerry Prather, and Howard Kitchener, who obtained the NCIC data, of Wade Whitman who coded the records, and Walt Terrie who did the computer runs for this study.

imprisonment. This could include both misdemeanors and felonies as evidence of recidivism. The Number of Reincarcerations was defined as the number of notations in the NCIC records showing entry into an institution for any reason and for any length of time subsequent to release to the community.² Thus, this criterion would classify as recidivists men who were returned for technical violations of parole as well as men convicted of new offenses and sentenced to periods of confinement.

In the present study the scores on each of the three variables, NA, NC, and NINC were dichotomized; those with scores of zero (indicating no occurrences of the event since release) were classified as successes and those with scores of one or more were classified as recidivists. This was done separately for each of the three measures.

Results

Arrests

Of the 1,008 subjects, 542 (53.8%) had one or more arrests and were classified as recidivists; 466 (46.2%) had no subsequent arrests and were classified as successes (See figure 2). The number of subsequent arrests ranged from 1 to 16; 233 men (23.1%) had 1 subsequent arrest, 137 men (13.6%) had 2, 74 (7.3%) had 3, 42 (4.2%) had 4, 22 (2.2%) had 5, and 34 (3.4%) had more than 5.

Number of Convictions

The number of convictions after release was substantially lower than the number of arrests; 288 (28.6%) of the men were convicted of new offenses and were classified as recidivists according to this criterion, whereas 720 (71.4%) had no subsequent convictions and were classified as successes (See figure 2). As might be expected with a followup period of this length, the conviction data were heavily skewed; 226 men (22.4%) had 1 conviction, 43 (4.3%) had 2, and only 18 (1.9%) had 3 or more.

Number of Incarcerations

Number of subsequent incarcerations, the most commonly accepted general definition of recidivism, closely paralleled NC; 278 men (27.6%) were subsequently reimprisoned and classified as recidivists according to this definition, whereas 730 men (72.2%) avoided reimprisonment and

were classified as successes. (See figure 2.) Examining the data for the men who were returned to prison, 239 (23.7%) were reincarcerated once during the followup period, 34 (3.4%) twice and five (0.5%) three times.

Discussion

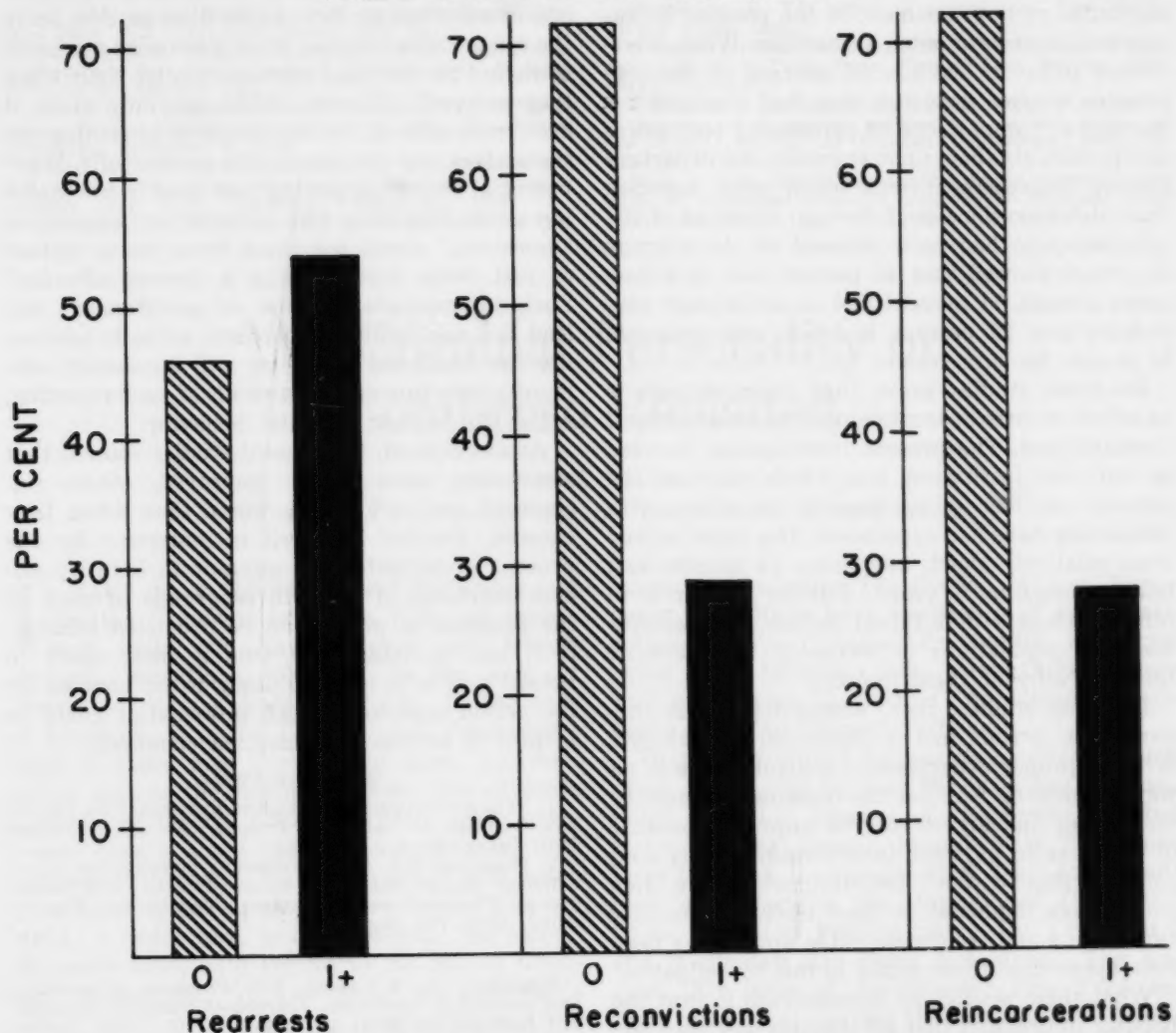
The recidivism data were generally consistent with the results of longitudinal studies reported in the literature, which show about two-thirds of the ex-offenders do not return to prison. A similar proportion (72%) was obtained in the present study even though it included all types of releasees, whereas many of the earlier investigations were limited to parolees.

As might be expected, there was a considerable higher rate of "recidivism" when subsequent arrests were used as the operational definition than there was when subsequent convictions or incarcerations were employed. Nationally, about 64.5 percent of the charges filed by police result in convictions (Gottfredson, Hindelang and Parisi, 1978). In the present sample only 53.2 percent of those arrested were convicted. However, the NCIC records showed that some men who were arrested while on parole were reincarcerated without being prosecuted for the alleged new offense.

Those who are pessimistic about the effects of prison will probably prefer NA as the best indicator of recidivism on the grounds that legal technicalities and parole revocations lowered the conviction rate. Those who are more optimistic will no doubt prefer NC or NINC, arguing that the number of arrests was probably inflated by the tendency of police to accuse ex-offenders of crimes which they did not commit.

Clearly, officially recorded criminal behavior represents only a fraction of the illegal behavior that people engage in, and the three indices used in the present study cannot be taken as absolute indicators of the number of FCI "graduates" who actually engaged in subsequent offenses. However, the authorities who described prisons as "... manufacturers of crime ..." (Clark, 1970) were not basing their statements on speculations regarding the subsequent rate of *unrecorded* illegal activity; instead they were asserting that the actual *recorded* rates of recidivism would show that, "Corrections do not correct; reformatories do not reform . . ." (Maier, 1976). In contrast to this assertion, and to the popular belief (which is generally shared by the FCI

² This definition is more inclusive than the one used by Glaser (1964) and a number of other investigators which stipulates that the period of reconfinement must equal or exceed 70 days.

FIGURE 2.—*Recidivism Rates Following Imprisonment*

staff) that at least two-thirds of the inmates return to prison (Ref. Note 1), the present data showed that over two-thirds of the 1,008 men studied had *not* been returned to prison after being on the street an average of 3½ years. In short, this institution had a considerably greater "success rate" than it and other prisons are given credit for.

Some might wonder whether the FCI was atypical, perhaps drawing upon a select group of first offenders whose prognosis would be generally better than average. This hypothesis is not tenable. In the Federal Prison System, such individuals are typically sent to minimum security institutions rather than a medium security prison such as the FCI. Moreover, the cohort's record

of previous arrests indicates they were hardly virgins with respect to their previous involvement with the criminal justice system: 84 percent had been arrested one or more times before the offense which brought them to the FCI; 51 percent had from one to five prior arrests, 30 percent had six to ten, 13 percent from 11 to 15, 4 percent had 16 to 20, and 4 percent had more than 20 previous arrests. The subsequent decrease in officially recorded criminal activity can be most parsimoniously attributed to a change in their behavior.

Summary and Conclusions

All three studies evaluated the FCI at Tallahassee more favorably than one would suppose

having read the overwhelmingly negative effects attributed to imprisonment in the popular literature and by several noted authorities. When interviewed prior to leaving, 84 percent of the 643 inmates queried reported they had changed for the better. Comparisons of personality test scores and profiles obtained upon entrance and departure showed improvement was much more common than deterioration. A followup study of 1,008 offenders who had been released on the average $3\frac{1}{2}$ years showed that 45 percent had no subsequent arrests, 71 percent had no subsequent convictions and 72 percent had not been returned to prison for any reason.

Do these studies prove that imprisonment is an effective form of treatment for most offenders? Certainly not. The present investigation focused on only one institution, one which many of the inmates consider to be superior to others with which they have had experience. The terms served were relatively short, averaging 14 months and never exceeding 6 years. Further research in other settings with different periods of incarceration and populations is necessary to determine the generality of these findings.

Do these studies, then, demonstrate that this particular prison had a beneficial effect? No. Without proper experimental controls there is no way of knowing whether the inmates' personality test scores and arrest records improved because of or in spite of their incarceration. It is conceivable that without imprisonment more men would have improved in their tested personality functioning and recidivism rates would have been even lower than those found in this investigation.

What these studies do demonstrate is that the popular impression that *all* inmates emerge from *all* prisons significantly more disturbed, bitter and inclined toward criminal behavior is false. Undoubtedly, some do, but in this institution at least, the typical inmate left the institution better adjusted than he was when he entered, and the vast majority did not return.

These findings are important for two reasons. First, given static or decreasing appropriations, coupled with increasing costs for food, fuel, staff salaries and the like, there is a great temptation for correctional administrators to balance budgets by reducing treatment programs. As long as the Martinson statement that "nothing works" remains unchallenged, it provides a convenient excuse for reducing allocations for rehabilitative programs.

Second, such inflammatory statements as, "Prisons breed crime as dirt breeds disease. Few leave the cell uncontaminated. Most leave with a greater contempt for law and criminal justice than when they entered" (Harris, 1978) can only make it even more difficult for ex-offenders to reintegrate themselves into the community successfully. What potential employer, having just read in his morning paper that men who enter prison emerge as "monsters," would not think three times instead of just twice before hiring a former offender? Such intemperate labeling of ex-offenders can lead to a self-fulfilling prophecy, actually increasing the likelihood that they will encounter community rejection and, as a result of such rejection, resort to further criminal behavior.

As anticipated, the present studies showed that some men leave prison improved, others unchanged, and still others worse than when they entered. Further research is underway by the present investigators to attempt to identify the characteristics of these three groups of men. If the response to prison can be predicted reliably, if it can be determined who is most likely to benefit and who is most likely to be harmed by the prison experience, such information could be helpful in sentencing convicted criminals.

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The Criminal Personality or Lombroso Revisited

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IN MANY WAYS, the late Robert Martinson and Stanton Samenow are alike. Both are associated with, and have become well known through, sensational phrases. In the case of Martinson, it was *Nothing Works*. In the case of Samenow, it is the *The Criminal Personality*. Both of these men (one would hope, inadvertently) became the darling of those who advocate a hard line toward offenders. Both, when questioned closely about their catchy phrases, then softened their words. Martinson finally said, when questioned by colleagues in corrections, "You are right; I won't say, 'nothing works,' anymore." Samenow says, with regard to the phrase *Criminal Personality*, "It was really the publisher's idea." Both men, however, profited from their sensational statements. Each of them, articulate and at ease at the podium, has made countless public appearances on television, at correctional workshops, and at conferences. Both of them have, through their respective works, done real harm to corrections.

The first volume of *The Criminal Personality* was published in 1976. It has since been followed by Volume II (1977). According to Samenow, a third volume is on route. *The Criminal Personality* has received excessive publicity. Dr. Samenow, co-author with Dr. Samuel Yochelson (a psychiatrist who died in 1976), has been busy for the past 2 years making public appearances. As his fame has increased, he has become a highly paid consultant to several jurisdictions. His book has been the subject of articles in various national

magazines, including *The Reader's Digest*. Newspaper city editors have assigned staff to prepare articles on *The Criminal Personality*. Far from being lurid tabloids, these newspapers include such well known journals as *The Atlanta Constitution* and *The Chicago Tribune*.

That *The Criminal Personality* receives so much press is not only because the book has a sensational title, but because of the firmly asserted statements that appear throughout it. The media loves the book; newspaper staff draft such headlines as "Cracking the Hard-Boiled Criminal," "You Can Stop Feeling Sorry for Criminals," and "Criminals Are Born, Not Made." The August 1979 issue of *Ambassador* (the TWA in-flight magazine) carries the headline: "... provocative and persuasive evidence that criminals are born, not made."

The press loves a book like this because it makes a very complicated issue—crime—simple. Now there is a simplistic explanation for all criminal behavior: the criminal is different from the rest of us good folks. In an appearance during September 1979 in Louisville, Kentucky, Samenow informed the Kentucky Council of Crime and Delinquency, "I admit that the title—*The Criminal Personality*—does suggest there is a different breed; that criminals are different from you and me. This was the publisher's choice." Even the most casual reader of *The Criminal Personality*, however, soon discovers that the publisher was correct in selecting this title (if he did). The

contents of the book—530 pages—clearly support the title.

The Criminal Personality turns back the clock 100 years to single factor explanations of criminal behavior. Although Samenow never attributes criminality to genetic inheritance, anyone familiar with the literature of corrections is immediately reminded of Cesare Lombroso, who, towards the close of the 19th century, espoused the theory that lawbreakers are born criminals; that the criminal is a throwback to a Neanderthal type of man. Most early criminologists offered such simplistic explanations. Goring believed that criminals were mentally inferior; Hooton said that law violators were low grade human organisms, evidencing constitutional inferiority; Goddard wrote a book saying law violators were feeble minded. Over the course of the last 70 years, these simple single-factor explanations for crime have been discredited. *The Criminal Personality*, however, brings us around full circle. We are again in company with Lombroso.

At the very beginning of *The Criminal Personality* Yochelson and Samenow cavalierly discard all the work that has been done by sociologists and psychologists in explaining why we are plagued with crime. They write, "We were persuaded by emerging facts to discard sociologic and psychologic theories of causation in favor of a careful probe into the criminal's thinking and action patterns."

Most of us in the age range of the 40's and 50's remember the radio program where comedian Red Skelton portrayed the role of "a mean little kid." Essentially, Yochelson and Samenow's *Criminal Personality* is the "mean little kid" syndrome described in psychological terms.

Although Samenow said that his critics have taken comments from the book "out of context," the quotations in this article are not taken "out of context." They are heart and soul of the Yochelson/Samenow explanation for criminal behavior.

The authors believe that crime begins as early as 3 and 4 years of age, when a child begins to act in an antisocial manner. Throughout the book, they refer to "the criminal child." Yochelson and Samenow believe that antisocial behavior at the age of 3 or 4 is a deliberate choice by the child. This should be of particular interest to lawyers and members of the judicial profession. For hundreds of years, British common law has recognized that a child under 7 years of age is too

immature to have "mens rea" (criminal intent).

According to Yochelson and Samenow, by age 10 the criminal child has become a serious violator. By age 16, the youngsters in their study were classified as "full fledged criminals." These authors say the parents do not reject these children; rather, the children reject the parents.

Yochelson and Samenow pronounce that these children are precociously sexual. They write, "As early as the age of three, the criminal child shows inordinate curiosity about sexual matters . . . he peeks through cracks in doors and peers through keyholes to catch glimpses of mother, sister, or a friend's mother or sister, as she dresses, bathes, or uses the toilet." Yochelson, the psychiatrist, and Samenow, the clinical psychologist, inform us that these criminal children have no sexual latency period, from 7 to 12, as would be characteristic of most young people.

They insist that the criminal child is a tyrant at home. "The criminal child seems not to do anything right around the house . . . he shys away from affection . . . lying is a major ingredient . . . the criminal youngster engages in crimes against the family."

The criminal child is described as a demon at school. "Whether in public or parochial school, it is around the age of ten that the criminal child begins to be recognized as a problem . . . he pulls the girls' hair, acts as class clown, interrupts lessons, and is insolent to teachers."

The criminal child becomes a terrible employee upon reaching adulthood. They write, "Most descriptions of how the criminal functions contained the statement that he is unable to hold a job . . . although the criminal may maintain a facade at work, he is unpredictable in performance."

Yochelson and Samenow argue that all criminals are life-long liars. In their opinion, all criminals are psychopaths. No matter what the offense all criminals fit a common profile. They write, "To classify the criminal as a 'check writer' or 'rapist' is inaccurate. Most criminals have committed violations in all three categories—property, sex, and assault—but have not been arrested."

Yochelson and Samenow contend that once a criminal, always a criminal. There is no such thing as an ex-offender. In reference to the men they treated, they write, "The criminals developed an understanding that their position was similar to that of alcoholics. A 'crack in the door' would spell destruction for either . . . the criminal should

never regard the job as completed. Just as a member of Alcoholics Anonymous never considers himself an ex-alcoholic, neither should the criminal view himself as an ex-criminal."

They argue that, on the basis of their research, all criminals are characterized by 52 "errors in thinking." During his remarks to the Kentucky Council on Crime and Delinquency, Samenow was more cautious in his assertions. In the book, however, he and his co-author clearly state, "We have described the criminal population as a different breed."

Yochelson and Samenow maintain there is a continuum of human behavior, ranging from "responsible" people on one end to the hardcore criminal on the other. While the continuum is mentioned, it receives very little treatment in *The Criminal Personality*. During his remarks before a workshop at the Kentucky Council on Crime and Delinquency, Samenow admitted that the continuum is covered in "only one little section in the book." He and Yochelson also write, "We want to avoid giving the impression that we are saying things only in extremes—we do not divide the world into two groups—criminals and non-criminals." Yet, even the most casual reader of this book will find that this is exactly what they do. Despite the disclaimer, the thrust of this book is to indicate the criminal is indeed a different breed.

Throughout most of the 530 pages of Volume I of *The Criminal Personality*, reference is made simply to that single entity—"the criminal." There is occasional reference to "hardcore criminals" or "full fledged criminals." These references, however, are in the minority. Moreover, the terms are never defined.

Almost no mention is made of blue collar and white collar crimes. While we are told that blue collar and white collar offenders fit into the continuum, we are never quite sure where. Yochelson and Samenow, while giving many examples of ordinary street criminals, never define what a "hardcore" white collar offender would be. One can only assume that, as they use the term "hardcore," they are referring to street criminals, because their book is loaded with dramatic case histories and the fantasies of muggers, rapists, and robbers.

From the point of view of a researcher, it is difficult to get a handle on exactly who the subjects of the Yochelson/Samenow research are. One hunts in vain to discover how long they

worked with particular individuals, in what way, and to what degree individual offenders were treated by individual psychotherapy or through groups.

We do know that a total sample, over a period of 14 years, consisted of 240 individuals. All were males. Despite this, the authors imply that their findings can be applied to females. In a footnote on one page, they write, "We have not systematically studied female criminals. However . . . we have had prolonged contact with many of them, owing to the fact that the criminals in our study have, in many instances, gravitated to them and in many cases married them."

Certainly, by the standards of most researchers, the 240 individuals in the Yochelson/Samenow study would represent a skewed sample. By their own admission, Yochelson and Samenow reveal that half of the 240 were either forensic patients in St. Elizabeth's Hospital in Washington, D.C., (placed there by the courts with the diagnosis: "not guilty by reason of insanity") or were individuals not yet found NGBRI but sent to the hospital for evaluation purposes.

While we know some of their work was through individual psychotherapy, we do not know which patients were so treated, or what the results were. Much of their work was done in groups, but the groups, when described at all, are said to be "a mixture in almost every possible way." One is informed that people moved in and out of the groups. A variety of offenders were included in these groups. Some of the groups met frequently; others did not. Some offenders were screened out by Yochelson and Samenow. The authors say that these were few. In contrast, the authors reveal, "Much to our satisfaction, many criminals selected themselves out in the initial phase of our contacts with them . . . Once they were presented with a perspective of the stringent requirement for change, they did not want to accept the discipline to achieve something that they were unsure they wanted to begin with. It became clear that only a minority of those would choose to participate."

In all of this lengthy book, the most specific description of the individuals under study is the following: "As of May 1, 1975, our sample numbered two hundred and forty. Of these, one hundred and sixty-two are hardcore criminals. Another fifty-nine from thirteen to twenty-one years old can be considered hardcore in that criminal patterns of thinking are present and violations

have been numerous over a period of years; these fifty-nine subjects we interviewed and evaluated or worked with briefly in community clinics. We interviewed thirteen others only a few times; these are adults and teenagers who showed less extensive criminality in both thought and action and who participated purely as research subjects and were not in our program for change. Finally, we interviewed six children under thirteen whose parents asked us for an evaluation because they were worried about their off-springs' behavior."

In another part of the book is found this statement: "Since 1970, we have continued to interview men sent to St. Elizabeth's for determination of competency. In addition, patients who have been declared NGBRI and have heard about us have sought us out. Most of the criminals from St. Elizabeth's who have participated in our program have done so mainly as outpatients. Furthermore, we have begun working with four men on probation and with several who are full fledged criminals, but have never been arrested."

There is no control group of so-called ordinary citizens whose behavior or fantasies were studied. Since Yochelson and Samenow state that the criminal is "a different breed," it would be of interest to know what a representative population of ordinary individuals might have told the psychiatrist and the psychologist regarding unreported crimes and criminal fantasies. After all, these writers have asserted, "We have described the criminal population as a different breed . . . with an entirely different view of life and an entirely different set of thinking patterns." How can one tell, unless it is empirically determined that their thinking patterns are so different?

In a book review (in one of the more recent issues of "Crime and Delinquency"), Dr. Theodore Sarbin, professor emeritus in psychology and criminology at the University of California in Santa Cruz, makes the following comments regarding *The Criminal Personality*: "With all the emphasis on thinking patterns, the reviewer expected to see some criterion measures, some independent assessments of the outcomes of the changed program . . . before and after assessments of criminal thinking patterns are nowhere to be found. All I could find were doctrinarian assertions that some of their criminals who participated fully and at length . . . did not recidivate."

After 14 years of labor with a total sample of 240 male persons, Yochelson's and Samenow's results are hardly impressive. They believe they

have been totally successful with 13 individuals. While their first clients were patients at St. Elizabeth's Hospital, this, according to the book, has not been true for some years. As of 1972, "We decided not to work with criminals while they were patients at St. Elizabeth's Hospital." Their explanation? "We constantly had to cope with personal antagonisms by those in administrative positions at John Howard . . . within a given building, the whole gamut of approaches and philosophies of treatment could be found. The inconsistencies were glaring. A prison would have had a more uniform and coherent approach."

From the point of view of empirical research, there is no hard information about the subjects in *The Criminal Personality*. Nothing is quantified. The book is rife with such words as "some," "many," "most," etc.

Chapter One is entitled "The Reluctant Converts." In this chapter, Yochelson and Samenow inform the reader they were reluctantly converted from their initial belief that criminals could be treated by traditional methods of psychotherapy. This, frankly, causes one to wonder about the research knowledge of these two authors. Ordinarily, when one begins a major field of investigation, his first step is to research the literature in that field. Yochelson began his work at St. Elizabeth's Hospital with the forensic patients in 1961. Yet, it was not until 1972 that the authors began to "survey the literature to determine how our work contrasted with current thinking and practice." While Chapter Two, "History of the Concept of the Criminal Personality," is one of the better chapters in this book, one wonders why Yochelson and Samenow make so little reference to *Reality Therapy*, authored by psychiatrist William Glasser in 1960. This book appeared prior to Yochelson's starting his efforts at St. Elizabeth's Hospital. It was much talked about at that time. Glasser, a psychiatrist, makes it clear that traditional techniques in working with mental patients are not effective in treating delinquents and other offenders.

It is important to remember that Yochelson and Samenow, in asserting that a criminal personality exists, argue that all offenders, regardless of the criminal offense, fit a common profile. By this reasoning, therefore, the extreme white collar criminal should fit the profile of the hardcore street criminal. For the purposes of comparison, let us take Richard Speck, who murdered the nurses in Chicago some years ago, and compare

him with Richard Whitney, who stole millions while president of the New York Stock Exchange in the 1930's. While it is possible that the following assertions from *The Criminal Personality* might fit Richard Speck, one wonders how well they can be applied to Richard Whitney:

The criminal does not value money in the way a responsible person does . . . There is no concept of money management: it would be absurd to manage what one does not value.

Even when the criminal goes to the supermarket, he is not equipped with the thinking processes or information to make wise purchases.

The criminal is chronically angry, even as he walks down the street.

He regards God as an all powerful, all knowing being who sees everything all the time . . . It is important to note that the religious ideas of adult criminals have not evolved beyond their childhood forms.

The criminal has no concept of education and it is rare for him to derive any benefit appropriate to what school purports to offer.

The first offender notion is a mistaken . . . By the time he is apprehended, he has more than likely committed hundreds, if not thousands, of offenses.

Again, for the sake of comparison, let us take Richard Speck and Richard Whitney, using the Yochelson Samenow continuum. If one would admit that Speck peeked "through cracks in doors . . . to catch glimpses of mother, sister, or a friend's mother or sister" in a state of undress, would Richard Whitney, not quite as far towards the extreme end of the criminal continuum, have peeked only at his sister? Yochelson and Samenow make the statement, "When the criminal child rides his bike, it is not for a leisurely recreational ride, but to race and perform feats that others do not . . ." Again, using the continuum, would Richard Whitney have ridden his bicycle somewhat more leisurely than Richard Speck?

The Criminal Personality is loaded with contradictions. A flat statement is made applying to all criminals. Then, a sentence or paragraphs later, it is dissipated. For example, at one point in the book, Yochelson and Samenow declare, ". . . every criminal is a perfectionist . . . he gives attention to every detail . . . in the scheming and execution of crime, the criminal believes that he has it all planned down to the last detail, with every contingency taken into account." Later in the book is found this statement: "In most of the criminal's decision making, there is no weighing pro's and con's. No careful evaluation of a course of action . . . The criminal simply does whatever is compatible with his state of mind

Some of the flat assertions of Yochelson and at the time."

Samenow with regard to "the criminal" are amazingly naive. Surely, these descriptions of "the criminal" would describe many ordinary males:

Even in elementary school the criminal wanted to have a girlfriend.

The criminal fathers children out-of-wedlock and within marriage.

Many criminal youngsters are preoccupied in building up their bodies.

The criminal child operates alone, with an accomplice, or in a group.

Another common topic is sex. Criminals share information on where to find available women on the outside and how to conquer them.

The criminal child wants to be a powerful person—combat hero, fireman, law enforcement agent, clergyman.

Yochelson and Samenow make the following statement with regard to "the criminal's" inability to carry on a conversation. They state, "Actually, the criminal does not know what a conversation is. No matter whom he talks to, issues are closed. He has prejudged everything. The criminal knows it all, and everyone must pay attention to him and recognize him as an authority. He does not listen to others because he is so busy proving a point . . ." Compare the following comment with regard to their own approach in interviewing an offender the first time: "We did not ask open-ended questions, but from the beginning told him that we knew about how his mind operated. Our opening statement might last a half hour before the criminal had his turn to speak. We established our competence and knowledge from the outset . . . We controlled the interview totally."

Aside from all the obvious errors in this book, *The Criminal Personality* has all the potential of doing American corrections a great disservice. In the 1970's, Robert Martinson became the darling of legislators, columnists, and others who favored only punishment and confinement for offenders. The President of the Florida Senate in 1975, delighted with Martinson's *Nothing Works* statements, circulated to every member of the Florida Senate a xeroxed article, which had appeared in the *National Observer*, containing Martinson's arguments and those of similar persuasion. In similar fashion, at least one newspaper article, carrying the headline "Now You Can Stop Feeling Sorry for Criminals," was based essentially on these statements in the Yochelson/Samenow book: "Basically, we could establish no cause or connection between the way the criminal thinks and acts and the circumstances of his life," and "It is not the environment that turns

a man into a criminal; rather, it is a series of choices he makes, starting at a very early age."

Almost without exception, corrections workers report that juvenile delinquents are characterized by poor school performance. In most cases, these children are several years behind nondelinquent children of the same age. On what basis can one support special programs to help these children overcome their reading and learning disabilities? According to Yochelson and Samenow, "The criminal's lack of commitment to school itself cannot be remedied by extra time, extra effort, or a change in curriculum."

Probation and parole officers almost universally say that the most important factor in an offender's going straight "is employment." A number of organizations have done splendid work in finding jobs for ex-offenders. Surely, their cause is helped not at all by the following comments in *The Criminal Personality*: "Some criminals do not work at all. Others work only to present a facade of respectability, and thereby make crime easier . . . On the job, the criminal is late to work, is sloppy and neglectful about details that do not interest him, and does not follow through on work assigned . . . In every sector of responsible living, the criminal disregards obligation."

In short, according to Yochelson and Samenow, "the criminal" can do nothing right. If the offender is in prison and takes part in various programs within the institution, it is "for point scoring purposes. Others have a power thrust component, for example, the establishment of inmate councils with the assumption of the chairmanship of some activity." If the offender is under supervision in the community, Yochelson and Samenow argue the circumstances are as follows: "Probation and parole is regarded as merely another obstacle to surmount, and not a particularly formidable one . . . He sizes up the person with whom he is dealing and anticipates what it will take to satisfy him." If the former offender takes a part in community activities, Yochelson and Samenow offer this explanation: "A criminal may become an activist in social movements . . . Although he may fortunately present himself as a spokesman for the oppressed, he is using his cause as a vehicle for self-aggrandizement."

If he should actively be accepted as a staff person within a criminal justice agency, Yochelson and Samenow describe the result: "In every instance in our experience, the criminals who

served as counselors and therapists have themselves reverted to patterns of irresponsible and arrestable behavior." If an individual has been a juvenile delinquent, and has apparently moved into mature, responsible citizenship, the authors explain it as follows: "These people have changed from being 'little hellions' as youths to being straight as adults, owing to accommodation of external and internal deterrents. They want excitement, but deterrents are keeping them from engaging in criminal activity."

In short, offenders are described in such totally negative terms that the reader may well conclude they are "a separate breed." If "those people" are considered different from "us good folks," the consequences for society can be exceedingly dangerous. Consider, for example, American slavery of the 18th and 19th centuries, when blacks were looked on as "different." Consider also the treatment of Jews in Nazi Germany in this century. They were "different." Once a particular group of people is looked upon as undesirable and different, harsh punishment and extreme measures become more and more justifiable.

Yochelson and Samenow say they refused to believe the sorry stories that criminals told them about their backgrounds, because they concluded the stories were all self-serving lies. In their interviews, they tell the offender he has "been a liar all his life . . . we underscore that all his life he has been a criminal." They deal "with the criminal firmly and abruptly, telling him, even before he opens his mouth, that we do not like him." While Yochelson and Samenow may have concluded that all their clients were lying, my experience in youth corrections in both Illinois and Florida would not support their view. Far from listening to childrens' accounts of family and neighborhood circumstances, I studied the reports of probation officers and social workers who witnessed, first hand, the abuse, brutality, depravity, and criminal associates which were part of so many of these childrens' lives from their earliest moments.

In his remarks before the Kentucky Council on Crime and Delinquency in September 1979 Samenow responded, in answer to a question, "I am not saying environment doesn't matter at all, but the environment does not explain why we have such a person who wants such a life." Perhaps, if Samenow were to read Charles Silberman's *Criminal Violence/Criminal Justice*, published in 1978, he might find the answer.

Silberman's work is the result of 6 years of persistent research funded by the Ford Foundation. Instead of taking a simplistic, one factor approach to crime, Silberman points out that crime is a complex phenomenon, touching all classes of Americans, and far more prevalent than official crime statistics would indicate. With respect to street crime, Silberman writes, "Why are the violent criminals drawn so heavily from the ranks of the poor. The answer lies not in the genes but in the nature of the lives poor people lead in the communities in which they reside."

Silberman, while emphasizing that one cannot predict whether a particular individual will become involved in crime, does point out the probability of criminal involvement for America's "under class." A youngster in an urban ghetto, observing the pitiful lives of his own parents, sees no reward in hard work. His role models are the hustler, the pimp, and organized crime figures. In fact, as Silberman points out, it is often through a connection with organized crime, possibly as a runner in the number racket, that the young person finds his first employment. Many ghetto youths feel like failures in a society that makes it clear to them every day (through television) how different their own style of life is from that of the middle class. The slum dweller also sees the double standard in American justice, where the person who steals social security checks from the mail is punished with a 5-year sentence, while the embezzler, guilty of defrauding a bank or business of well over \$100,000, is given a 2- or 3-year term.

Silberman points out that all of us, including slum dwellers, look for a certain amount of "kicks" or "action." Most of us can afford to obtain our "kicks" through taking a vacation, going to see relatives in another city, moving into a new house, playing sports, or gambling in Reno or Las Vegas. In contrast, many slum dwellers have never been outside the immediate neighborhood where they find themselves. Some poor children on the west side of Chicago, for example, have never seen Lake Michigan. Crime, whatever else it is, is excitement. To the young resident of an urban ghetto, personally familiar with pimps, prostitutes, fences, and the neighborhood drug pusher, crime is "kicks." Silberman's book would help Samenow to understand why many street criminals are what they are.

In reading *The Criminal Personality* one cannot help but wonder if Yochelson and Samenow ever

ventured into some of the more desolate areas of our large cities. Their insensitivity to the subjects in their study is demonstrated by the following: "Many criminals do not know how to act with responsible people . . . It was observed at a reformatory that many youthful offenders did not know how to use knives and forks properly." Samenow tells us that Yochelson was furious when he discovered, during a party at St. Elizabeth's that his patients gave for him, that the food for the party had been stolen. Where else would they have obtained it? Moreover, what is so terrible about the hospital's food being used in this fashion?

Turning again to Dr. Sarbin of the University of California at Santa Cruz, we find these comments with respect to his review of *The Criminal Personality*. As he read the book, he stated he felt "something like a *deja vu* experience was taking place. It dawned on me that the images were the same order of those of an earlier day, when psychiatric writers would attempt to describe the 'psychopathic personality.' I half expected to find expressions like 'moral imbecile' . . . in summary, the tone of my review is decidedly negative. The decision not to use the normal standards for scientific reporting is regrettable. The dogmatic stance regarding the existence of criminal types is not reported by reputable data."

Despite blatant deficiencies in *The Criminal Personality*, Yochelson and Samenow are now being hailed by some corrections professionals and members of the press as the authors of "a pioneering study," responsible for "a startling new look" at crime. Without taking anything away from whatever treatment techniques Yochelson and Samenow may have developed for their clients, *The Criminal Personality* is essentially a collection of sweeping generalizations, inadequately supported, and represents the subjective views of one psychiatrist and one clinical psychologist.

In late 1978 NCCD's *Criminal Justice Newsletter* reported that Martinson, in swinging away from his *Nothing Works* stance, had been asked by a university professor in the seminar audience, "What will I now tell my students?" Martinson replied, "Tell them I was full of crap." It was the sort of dramatic statement Martinson's audiences have relished. Thus far, there has been no comparable comment from Samenow.

The Salient Factor Score: A Nontechnical Overview

BY PETER B. HOFFMAN, PH.D., AND SHELDON ADELBERG, PH.D.*

AS AN AID in assessing an offender's likelihood of favorable outcome upon release, the United States Parole Commission uses an actuarial device, termed a "salient factor score." This device, shown in Appendix I, is applied in conjunction with explicit decision guidelines, which articulate commission policy as to the customary range of months to be served before release for cases with specific offense (severity) and offender (parole prognosis) characteristics. The salient factor score concerns the horizontal (parole prognosis) dimension of the guidelines chart, shown in Appendix II. Use of the guidelines system is designed to enhance consistency and fairness in decisionmaking by guiding and structuring the exercise of Parole Commission discretion without removing the opportunity for individual case consideration. Decisions departing from the guidelines are permitted, but specific written reasons for such departure are required in each case.¹

The most recent revision of the salient factor score became effective in April 1977. This instrument contains seven items that, when added together, provide a score with a range from zero to eleven points: the higher the score, the higher the probability of favorable outcome upon release (i.e., the lower the probability of recidivism). A nontechnical overview of the salient factor score is presented in this article, and its predictive power in relation to two measures of recidivism is examined.²

Selecting the Form of the Predictive Device

Criminal justice research workers have explored various methods of combining individual items of information found associated with recidivism in an effort to increase predictive power. These methods range from the simple additive scoring of predictive items (often referred to in American criminological literature as the Burgess method)³ to sophisticated mathematical weighting methods made feasible by modern com-

puter technology (e.g., multiple regression analysis, predictive attribute analysis, and association analysis).⁴ Interestingly, when predictive devices constructed with different methods are put to the test on validation (the application of the device to a new sample—a sample different from the one used in the construction of the device), devices based upon the simpler additive design appear to predict as well as, and sometimes better than, those constructed by use of mathematically more sophisticated methods.⁵ Given this apparent equivalence of predictive power among the various methods, the simplicity and ease of scoring of a Burgess type device commend it for operational use. The salient factor score developed for the Parole Commission is of this type.

Sample Selection and Criterion Measures

A random sample (N=2,497) of Federal prisoners released in 1970 provided the informational base for the construction of the salient factor score described in this article. An additional random sample (N=2,149) of Federal prisoners released during 1971-72 provided the informational base for validating this device. All three major types of release (parole, mandatory release, and expiration of sentence) are included. Use of a uniform 2-year followup period from date of release for each case, regardless of method of

¹ Regulations governing application of the paroling policy guidelines are found at 28 C.F.R. §§ 2.20 and 2.21. For a discussion of the development and use of the guidelines system, see Gottfredson, D.M., Wilkins, L.T., and Hoffman, P.B., *Guidelines for Parole and Sentencing*, Lexington, Mass.: Lexington Books, 1978; and Hoffman, P.B., and Stover, M.A., "Reform in the Determination of Prison Terms: Determinacy, Equity, and the Parole Release Function," *Hofstra Law Review* 1, 1978, pp. 89-121.

² For a more technical description of the research underlying the development of an earlier version of the salient factor score, see Gottfredson, D.M., Wilkins, L.T., and Hoffman, P.B., Chapter 3, *supra* note 1; see also Hoffman, P.B., Stone-Meierhoefer, B., and Beck, J.L., "Salient Factor Score and Release Behavior: Three Validation Samples," *Law and Human Behavior*, 1, 1978, pp. 47-62.

³ One of the earliest parole prediction studies was conducted by Elmer Burgess using this method of scoring; see Bruce, A.A., Harno, A.J., Burgess, E.W., and Landesco, J., *The Workings of the Indeterminate Sentence Law in the Parole System in Illinois*, Springfield, Ill.: Illinois State Board of Parole, 1928, pp. 205-249.

⁴ For a review of various methods of constructing prediction devices see Simon, F.H., *Prediction Methods in Criminology*, London: Her Majesty's Stationery Office, 1971; and Gottfredson, D.M., "Assessment and Prediction Methods in Crime and Delinquency," Appendix K in the President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime*, Washington, D.C.: U.S. Government Printing Office, 1967.

⁵ See Simon, *supra* note 4; Gottfredson, D.M., Wilkins, L.T., and Hoffman, P.B., Chapters 3 and 6, *supra* note 1; and Gottfredson, S.D., and Gottfredson, D.M., "Screening for Risk: A Comparison of Methods," Final Report (Grant AM-1) to the National Institute of Corrections, August 14, 1979.

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release, was made possible through access to F.B.I. "rap sheet" records.⁶

Two criterion measures (measures of recidivism) are used in this article. Criterion Measure I, available for both samples, defines favorable outcome as follows: *no arrest for a new criminal offense resulting in a conviction and commitment of 60 days or more, no return to prison as a parole/mandatory release violator, and not a parole/mandatory release absconder during the followup period.*

Criterion Measure II, available for the validation sample, uses a stricter definition of favorable outcome: *no arrest for a new criminal offense (regardless of disposition), no return to prison as a parole/mandatory release violator, and not a parole/mandatory release absconder during the followup period.* Table I displays the two criterion measures.

Predictive Items

Table II shows the association between each of the seven items that comprise the salient factor score and Criterion Measure I for the construction and validation samples combined ($N=4,646$). As may be readily seen, each of the seven items is found significantly associated with the criterion measure in the expected direction. With reference to the first item (prior convictions), for example, a favorable outcome rate of 87.3 percent is shown for the group of cases with no prior conviction. This rate is 78.2 percent for the group of cases with one prior conviction; 71.9 percent for the group of cases with two or three prior convictions; and 64.1 percent for the group of cases with four or more prior convictions. These relationships are shown for the construction and validation samples separately in Appendix III.

The Predictive Score

For each of the seven items, a score is assigned. Again using the first item for illustration, cases with no prior conviction are assigned a score of 3 points. Cases with one prior conviction are assigned a score of 2 points; those with two or three prior convictions are assigned a score of 1 point; and those with four or more prior convictions are assigned 0 points. The sum of the scores for the seven items yields the predictive

score. As noted, higher scores indicate a more favorable prognosis (a lower probability of recidivism).

For use with the guideline matrix, the 12 possible scores (11-0) have been collapsed to form four risk categories: very good risk (scores of 11-9); good risk (scores of 8-6); fair risk (scores of 5-4); and poor risk (scores of 3-0). Table III displays outcome by score category, using Criterion Measure I, for the construction, validation, and combined samples. Also shown for each sample is the Mean Cost Rating (MCR), a statistical measure used in criminal justice recidivism research as an indicant of predictive power.

The information provided in Table III clearly indicates that the salient factor score separates parole applicants into four distinguishable risk categories, and that the predictive power of this instrument is maintained when tested on a validation sample.

Table IV displays outcome by score category for the validation sample using both Criterion Measures I and II. As Criterion Measure II provides a stricter definition of favorable outcome, the rates of favorable outcome shown are consistently lower when this measure is used. Nevertheless, the salient factor score continues to clearly distinguish the four risk groups.

Application of the Salient Factor Score

While the salient factor score provides a convenient method for summarizing our knowledge of the relationship between offender characteristics and likelihood of recidivism, its use in conjunction with a guidelines system does not mean the elimination of clinical judgment. Obviously, no actuarial device can take into account all of the variations in human behavior that may be associated with the presence or absence of recidivism. Thus, provision is made to allow the decisionmakers to override the salient factor score, but only for articulated, written reasons. That is, the application of the salient factor score to individual cases combines the use of an actuarial instrument with the provision for clinical judgment, but focuses such clinical judgment by requiring the decisionmakers to articulate the specific factors considered when a judgment is made to override the prognosis classification of the actuarial score.⁷

At this point, it is appropriate to emphasize the relationship of the "salient factor score" to the "guidelines system." The salient factor score

⁶ Since FBI "rap sheet" records for the period under consideration frequently lack dispositional information, the relevant law enforcement and court authorities were contacted, where required, to supplement these records.

⁷ In addition, the width of the guideline ranges themselves allow limited discretion.

concerns only the horizontal dimension of the guidelines chart. The vertical dimension of the guidelines chart relates to the seriousness of the prisoner's current offense behavior. Furthermore, the time ranges specified by the guidelines are predicated upon good institutional conduct. Thus, the salient factor score provides an empirical basis for an important dimension of the guidelines, but it is not the only dimension. Consequently, it is not appropriate to use the terms "salient factor score" and "guidelines system" interchangeably.

A Cautionary Note on Scoring the Salient Factors

Scoring the salient factors may, at first glance, appear to be a rather simple and rote task. Field experience, however, shows accurate scoring to be considerably more difficult than it appears on the surface. Careful attention to a number of complex rules is required. To facilitate consistent scoring, a guidelines scoring manual^a has been developed. This manual contains detailed instructions for the computation of the salient factor score items and offense severity ratings, and illustrations of the types of circumstances that may warrant a decision above or below the guidelines.

REFERENCED NOTES

1. Alcohol or cigarette tax law violations involving

^a *Guideline Application Manual*, Appendix 4 in U.S. Parole Commission Procedures Manual, May 1, 1978 (as revised), Washington, D.C.: U.S. Parole Commission.

\$2,000 or more of evaded tax shall be treated as a property offense (tax evasion).

2. Except that automobile theft (not kept more than 72 hours; no substantial damage; and not theft for resale) shall be rated as low severity. Automobile theft involving a value of more than \$19,999 shall be treated as a property offense. In addition, automobile theft involving more than 3 cars, regardless of value, shall be treated as no less than high severity.

3. Except that carnal knowledge in which the relationship is clearly voluntary, the victim is not less than 14 years old, and the age difference between offender and victim is less than four years shall be rated as a low severity offense.

DEFINITIONS

a. 'Other media of exchange' include, but are not limited to, postage stamps, money orders, or coupons redeemable for cash or goods.

b. 'Drugs, other than specifically categorized' include, but are not limited to, the following, listed in ascending order of their perceived severity: amphetamines, hallucinogens, barbiturates, methamphetamines, phencyclidine (PCP). This ordering shall be used as a guide to decision placement within the applicable guideline range (i.e., other aspects being equal, amphetamines will normally be rated towards the bottom of the guideline range and PCP will normally be rated towards the top).

c. 'Equivalent amounts' for the cocaine and opiate categories may be computed as follows: 1 gm. of 100% pure is equivalent to 2 gms. of 50% pure and 10 gms. of 10% pure, etc.

d. The 'opiate' category includes heroin, morphine, opiate derivatives, and synthetic opiate substitutes.

GENERAL NOTES

A. These guidelines are predicated upon good institutional conduct and program performance.

B. If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.

C. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.

D. If an offense behavior involved multiple separate offenses, the severity level may be increased.

TABLE I—*Criterion Measures*

Outcome is considered *unfavorable* if one or more of the following occur *within two years* of release from prison. If none of the following occur during the two year followup period, outcome is considered *favorable*.

UNFAVORABLE OUTCOME	
CRITERION MEASURE I	CRITERION MEASURE II
Arrest for a new criminal offense <i>resulting in a conviction and commitment of 60 days or more.</i>	Arrest for a new criminal offense <i>regardless of disposition.</i>
Return to prison as a parole or mandatory release violator.	Return to prison as a parole or mandatory release violator.
Parole or mandatory release violator absconder warrant outstanding.	Parole or mandatory release violator absconder warrant outstanding.
Death while committing a criminal act.	Death while committing a criminal act.
FAVORABLE OUTCOME	
None of the above.	None of the above.

NOTES: 1. Arrests for certain petty offenses such as drunkenness, gambling traffic infractions, and vagrancy are excluded.

2. For Criterion I, an arrest during the followup period which results in a commitment of 60 days or more subsequent to the followup period is counted as unfavorable outcome (i.e., the date of arrest—rather than the date of commitment—controls).

OTHER OFFENSES

(1) Conspiracy shall be rated for guideline purposes according to the underlying offense behavior if such behavior was consummated. If the offense is unconsummated, the conspiracy will be rated one step below the consummated offense. A consummated offense includes one in which the offender is prevented from completion only because of the intervention of law enforcement officials.

(2) Breaking and entering not specifically listed above shall normally be treated as a low moderate severity offense; however, if the monetary loss amounts to \$2,000 or more, the applicable property offense category shall be used. Similarly, if the monetary loss involved in a burglary or breaking and entering (that is listed) constitutes a more serious property offense than the burglary

or breaking and entering itself, the appropriate property offense category shall be used.

(3) Manufacturing of synthetic drugs for sale shall be rated as not less than very high severity.

(4) Bribery of a public official (offering/accepting/soliciting) or extortion (use of official position) shall be rated as no less than moderate severity for those instances limited in scope (e.g., single instance and amount of bribe/demand less than \$20,000 in value); and shall be rated as no less than high severity in any other case. In the case of a bribe/demand with a value in excess of \$100,000, the applicable property offense category shall apply. The extent to which the criminal conduct involves a breach of the public trust, therefore causing injury beyond that describable by monetary gain, shall be considered as an aggravating factor.

(5) Obstructing justice (no physical threat)/perjury

TABLE II—Percent Favorable Outcome By Salient Factor Score Item
Criterion Measure I—2-Year Followup
Construction and Validation Samples Combined

PERCENT FAVORABLE OUTCOME* (Number of cases)					
Scoring Instructions	Score=3	Score=2	Score=1	Score=0	X ² (Significance level)
Item A					
Prior conviction(s)	87.3%	78.2%	71.9%	64.1%	159.3
If none, score=3	(694)	(618)	(1,068)	(2,264)	(p<.0001)
If one, score=2					
If two or three, score=1					
If four or more, score=0					
Item B					
Prior commitment(s)		84.2%	72.0%	60.3%	227.3
If none, score=2		(1,472)	(1,341)	(1,831)	(p<.0001)
If one or two, score=1					
If three or more, score=0					
Item C					
Age at first commitment		85.0%	71.0%	60.3%	173.8
If 26 or older, score=2		(1,065)	(2,278)	(1,303)	(p<.0001)
If 18-25, score=1					
If 17 or younger, score=0					
Item D					
Commitment offense involved auto theft or check(s) (forgery/larceny)			78.0%	60.7%	161.8
If no, score=1			(2,822)	(1,824)	(p<.0001)
If yes, score=0					
Item E					
Ever had parole revoked, or probation violator this time.			77.0%	59.9%	147.4
If no, score=1			(3,074)	(1,572)	(p<.0001)
If yes, score=0					
Item F					
History of opiate dependence			72.9%	63.5%	29.4
If no, score=1			(3,807)	(839)	(p<.0001)
If yes, score=0					
Item G					
Verified employment or full-time school attendance for a total of at least six months during the last two years in the community.			77.5%	65.0%	88.4
If yes, score=1			(2,299)	(2,347)	(p<.0001)
If no, score=0					

* The percentage favorable outcome for the entire sample is 71.2% (N=4,646).

(in a criminal proceeding) shall be rated in the category of the underlying offense concerned, except that obstructing justice (threat of physical harm) shall be rated as no less than very high severity.

(6) Misprison of felony shall be rated as moderate severity if the underlying offense is high severity or above. If the underlying offense is moderate severity or less, it shall be rated as low severity.

(7) Harboring a fugitive shall be rated as moderate severity if the underlying offense is high severity or above. If the underlying offense is moderate severity or less, it shall be rated as low severity.

TABLE III—Percent Favorable Outcome By Salient Factor Score Category Criterion Measure I—2-Year Followup

PERCENT FAVORABLE OUTCOME (Number of Cases)			
Salient Factor Score	Construction Sample	Validation Sample	Combined Sample
Very Good [11-9 points]	90.7% (440)	94.5% (379)	92.4% (819)
11	96.6% (87)	97.4% (77)	97.0% (164)
10	91.8% (194)	96.6% (146)	93.8% (340)
9	86.2% (159)	91.0% (156)	88.6% (315)
Good [8-6 points]	75.9% (669)	81.4% (564)	78.4% (1,233)
8	78.2% (206)	84.8% (158)	81.0% (364)
7	74.9% (235)	83.1% (189)	78.5% (424)
6	75.0% (228)	77.4% (217)	76.2% (445)
Fair [5-4 points]	64.4% (660)	68.5% (565)	66.3% (1,225)
5	68.6% (290)	68.0% (247)	38.3% (537)
4	61.1% (370)	68.9% (318)	64.7% (688)
Poor [3-0 points]	55.0% (728)	58.0% (641)	56.4% (1,369)
3	54.4% (310)	59.7% (283)	58.5% (593)
2	54.2% (273)	60.8% (245)	57.3% (518)
1	51.1% (141)	48.5% (99)	50.0% (240)
0	50.0% (4)	42.9% (14)	44.4% (18)
All Scores Combined	69.4% (2,497)	73.3% (2,149)	71.2% (4,646)
Mean Cost* Rating	0.33	0.37	0.35

* The mean cost rating was computed using the four score categories.

TABLE IV—Percent Favorable Outcome By Salient Factor Score Category Validation Sample—2-Year Followup

PERCENT FAVORABLE OUTCOME		
Score Category (Number of Cases)	Criterion Measure I	Criterion Measure II
Very Good [11-9 points] (N=379)	94.5%	86.5%
Good [8-6 points] (N=564)	81.4%	66.3%
Fair [5-4 points] (N=565)	68.5%	50.1%
Poor [3-0 points] (N=641)	58.0%	39.6%
Score Categories Combined (N=2,149)	73.3%	57.7%
Mean Cost Rating	0.37	0.37

APPENDIX I
SALIENT FACTOR SCORE

Register Number _____ Name _____

Item A _____ ☐
No prior convictions (adult or juvenile)=3
One prior conviction=2
Two or three convictions=1
Four or more prior convictions=0

Item B _____ ☐
No prior commitments (adult or juvenile)=2
One or two prior commitments=1
Three or more prior commitments=0

Item C _____ ☐
Age at behavior leading to first commitment (adult or juvenile):
26 or older=2
18-25=1
17 or younger=0

*Item D _____ ☐
Commitment offense did not involve auto theft or check(s) (forgery/larceny)=1
Commitment offense involved auto theft [X], or check(s) [Y], or both [Z]=0

*Item E _____ ☐
Never had parole revoked or been committed for a new offense while on parole, and
not a probation violator this time=1
Has had parole revoked or been committed for a new offense while on parole [X],
or is a probation violator this time [Y], or both [Z]=0

Item F _____ ☐
No history of heroin or opiate dependence=1
Otherwise=0

Item G _____ ☐
Verified employment (or full-time school attendance) for a total of at least 6 months
during the last 2 years in the community=1
Otherwise=0

TOTAL SCORE _____ ☐

NOTE: For purposes of the Salient Factor Score, an instance of criminal behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be treated as if a conviction, even if a conviction is not formally entered.

*NOTE TO EXAMINERS:

If Item D and/or E is scored 0, place the appropriate letter (X, Y or Z) on the line to the right of the box.

APPENDIX II—ADULT^a Guidelines for Decision-Making
Revision effective June 1979

[Guidelines for Decision-Making, Customary Total Time to be Served before Release (including jail time)]

OFFENSE CHARACTERISTICS: Severity of Offense Behavior (Examples)	OFFENDER CHARACTERISTICS: Parole Prognosis (Salient Factor Score)			
	Very Good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Low				
Alcohol or Cigarette Law violations, including tax evasion (amount of tax evaded less than \$2,000)				
Gambling law violations (no managerial or proprietary interest)				
Illicit drugs, simple possession Marihuana/hashish, possession with intent to distribute/sale [very small scale (e.g., less than 10 lbs. of marihuana/less than 1 lb. of hashish/less than .01 liter of hash oil)]	=6 months	6-9 months	9-12 months	12-16 months
Property offenses (theft, income tax evasion, or simple possession of stolen property) less than \$2,000				
LOW MODERATE				
Counterfeit currency or other medium of exchange [(passing/possession) less than \$2,000]				
Drugs (other than specifically categorized), possession with intent to distribute/sale [very small scale (e.g., less than 200 doses)]				
Marihuana/hashish, possession with intent to distribute/sale [small scale (e.g., 10-49 lbs. of marihuana/1-4.9 lbs. of hashish/.01-.04 liters of hash oil)]				
Cocaine, possession with intent to distribute/sale [very small scale (e.g., less than 1 gram of 100% purity, or equivalent amount)]	=8 months	8-12 months	12-16 months	16-22 months
Gambling law violation—managerial or proprietary interest in small scale operation [e.g., Sports books (estimated daily gross less than \$5,000); Horse books (estimated daily gross less than \$1,500); Numbers bankers (estimated daily gross less than \$750)]				
Immigration law violations				
Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than \$2,000				
MODERATE				
Automobile theft (3 cars or less involved and total value does not exceed \$19,999)				
Counterfeit currency or other medium of exchange [(passing/possession) \$2,000—\$19,999]				
Drugs (other than specifically categorized), possession with intent to distribute/sale [small scale (e.g., 200-999 doses)]				
Marihuana/hashish, possession with intent to distribute/sale [medium scale (e.g., 50-199 lbs. of marihuana/5-19.9 lbs. of hashish/.05-.19 liters of hash oil)]				
Cocaine, possession with intent to distribute/sale [small scale (e.g., 1.0-4.9 grams of 100% purity, or equivalent amount)]	10-14 months	14-18 months	18-24 months	24-32 months
Opiates, possession with intent to distribute/sale [evidence of opiate addiction and very small scale (e.g., less than 1.0 grams of 100% pure heroin, or equivalent amount)]				
Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun)				
Gambling law violations—managerial or proprietary interest in medium scale operations [e.g., Sports books (estimated daily gross \$5,000-\$15,000); Horse books (estimated daily gross \$1,500-\$4,000); Numbers bankers (estimated daily gross \$750-\$2,000)]				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) \$2,000-\$19,999				
Smuggling/transporting of alien(s)				
HIGH				
Carnal knowledge				
Counterfeit currency or other medium of exchange [(passing/possession) \$20,000-\$100,000]				
Counterfeiting [manufacturing (amount of counterfeit currency or other medium of exchange involved not exceeding \$100,000)]				
Drugs (other than specifically listed), possession with intent to distribute/sale [medium scale (e.g., 1,000-19,999 doses)]				

	Very Good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
HIGH (continued)				
Marihuana/hashish, possession with intent to distribute/sale [large scale (e.g., 200-1,999 lbs. of marihuana/20-199 lbs. of hashish/.20-1.99 liters of hash oil)]				
Cocaine, possession with intent to distribute/sale [medium scale (e.g., 5-99 grams of 100% purity, or equivalent amount)]				
Opiates, possession with intent to distribute/sale [small scale (e.g., less than 5 grams of 100% pure heroin, or equivalent amount) except as described in moderate]	14-20 months	20-26 months	26-34 months	34-44 months
Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons)				
Gambling law violations—managerial or proprietary interest in large scale operation (e.g., Sports books (estimated daily gross more than \$15,000); Horse books (estimated daily gross more than \$4,000); Numbers bankers (estimated daily gross more than \$2,000)]				
Involuntary manslaughter (e.g., negligent homicide)				
Mann Act (no force—commercial purposes)				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) \$20,000-\$100,000				
Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act				
VERY HIGH				
Robbery (1 or 2 instances)				
Breaking and entering—armory with intent to steal weapons				
Breaking and entering/burglary—residence; or breaking and entering of other premises with hostile confrontation with victim				
Counterfeit currency or other medium of exchange [(passing/possession) —more than \$100,000 but not exceeding \$500,000]				
Drugs (other than specifically listed), possession with intent to distribute/sale [large scale (e.g., 20,000 or more doses) except as described in Greatest I]				
Marihuana/hashish, possession with intent to distribute/sale [very large scale (e.g., 2,000 lbs. or more of marihuana/200 lbs. or more of hashish/2 liters or more of hash oil)]	24-36 months	36-48 months	48-60 months	60-72 months
Cocaine, possession with intent to distribute/sale [large scale (e.g., 100 grams or more of 100% purity, or equivalent amount) except as described in Greatest I]				
Opiates, possession with intent to distribute/sale [medium scale or more (e.g., 5 grams or more of 100% pure heroin, or equivalent amount) except as described in Greatest I]				
Extortion [threat of physical harm (to person or property)]				
Explosives, possession/transportation				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) more than \$100,000 but not exceeding \$500,000				
GREATEST I				
Aggravated felony (e.g., robbery: weapon fired or injury of a type normally requiring medical attention)				
Arson or explosive detonation [involving potential risk of physical injury to person(s) (e.g., premises occupied or likely to be occupied) —no serious injury occurred]				
Drugs (other than specifically listed), possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 200,000 doses)]				
Cocaine, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 1 kilogram of 100% purity, or equivalent amount)]	40-52 months	52-64 months	64-78 months	78-100 months
Opiates, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 50 grams of 100% pure heroin, or equivalent amount)]				
Kidnaping [other than listed in Greatest II; limited duration; and no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving to a secluded location, and releasing victim unharmed)]				
Robbery (3 or 4 instances)				
Sex act—force (e.g., forcible rape or Mann Act (force))				
Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion)				

	Very Good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
GREATEST II				
Murder				
Aggravated felony—serious injury (e.g., robbery; injury involving substantial risk of death, or protracted disability, or disfigurement) or extreme cruelty/brutality toward victim	52+ months	64+ months	78+ months	100+ months
Aircraft hijacking	Specific upper limits are not provided due to the limited number of cases and the extreme variation possible within category.			
Espionage				
Kidnaping (for ransom or terrorism; as hostage; or harm to victim)				
Treason				

* There is a separate guideline chart for Youth/Nara cases (not shown).

APPENDIX III—Percent Favorable Outcome By Salient Factor Score Item
Criterion Measure I—2-Year Followup Construction and Validation Samples

PERCENT FAVORABLE OUTCOME* (Number of Cases)						X ²
Scoring Instructions	Sample	Score=3	Score=2	Score=1	Score=0	(Significance level)
Item A						
Prior conviction(s)	Construction	86.3%	75.3%	69.4%	62.1%	87.7
If none, score=3	Sample	(387)	(352)	(578)	(1,178)	(p<0.0001)
If one, score=2						
If two or three, score=1	Validation	88.6%	82.0%	74.9%	66.2%	75.5
If four or more, score=0	Sample	(307)	(266)	(490)	(1,086)	(p<0.0001)
Item B						
Prior commitment(s)	Construction		81.5%	70.3%	59.2%	102.4
If none, score=2	Sample		(778)	(727)	(990)	(p<0.0001)
If one or two, score=1						
If three or more, score=0	Validation		87.2%	73.8%	61.6%	127.4
	Sample		(694)	(614)	(841)	(p<0.0001)
Item C						
Age at first commitment	Construction		82.5%	69.8%	57.9%	90.4
If 26 or older, score=2	Sample		(577)	(1,217)	(703)	(p<0.0001)
If 18-25, score=1						
If 17 or younger, score=0	Validation		87.9%	72.4%	63.2%	85.2
	Sample		(488)	(1,061)	(600)	(p<0.0001)
Item D						
Commitment offense involved	Construction			76.2%	59.8%	76.6
auto theft or check(s)	Sample			(1,454)	(1,043)	(p<0.0001)
(forgery/larceny)						
If no, score=1	Validation			79.9%	61.8%	82.9
If yes, score=0	Sample			(1,368)	(781)	(p<0.0001)
Item E						
Ever had parole revoked, or	Construction			74.9%	58.9%	67.9
probation violator this time.	Sample			(1,636)	(861)	(p<0.0001)
If no, score=1						
If yes, score=0	Validation			79.4%	61.2%	80.3
	Sample			(1,438)	(711)	(p<0.0001)
Item F						
History of opiate	Construction			71.4%	59.3%	24.1
dependence	Sample			(2,077)	(420)	(p<0.0001)
If no, score=1						
If yes, score=0	Validation			74.7%	67.8%	8.2
	Sample			(1,730)	(419)	(p<0.005)
Item G						
Verified employment or	Construction			75.1%	63.4%	39.9
full-time school attendance	Sample			(1,272)	(1,225)	(p<0.0001)
for a total of at least six	Validation					
months during the last two	Sample			80.5%	66.8%	52.0
years in the community.				(1,027)	(1,122)	(p<0.0001)
If yes, score=1						
If no, score=0						

*The percentage favorable outcome is 69.4% (N=2,495) for the construction sample, and 73.3% (N=2,149) for the validation sample.

Health and High Density Confinement in Jails and Prisons

BY BAILUS WALKER, JR., PH.D., M.P.H., AND THEODORE GORDON*

HIGH DENSITY confinement in jails and prisons has been the focus of a plethora of lawsuits, debates and reports during the past decade. In fact, overcrowding in several prison systems has been found by the courts to constitute cruel and unusual punishment in violation of the Constitution of the United States.

In this direction, the United States District Court for the Middle District of Alabama, in *Adams v. Mathis*, held that:

... forcing inmates to live in too close proximity to other inmates is psychologically debilitating and leads to an increase in tensions and problems. This overcrowding also poses a protection problem.¹

More recently Mr. Justice Marshall wrote in *Bell v. Wolfish*:

Incarceration of itself clearly represents a profound infringement of liberty and each additional imposition increases the severity of the initial deprivation.²

These and other concerns have prompted several agencies and organizations to develop or revise standards and criteria for minimizing the noxious influence of high-density confinement in the Nation's jails and prisons. Among the first to act was the American Public Health Association which recommends that: "Single prison cells shall provide a minimum of 60 sq. ft. per person, 8 ft. ceiling and 500 cu. ft. per person and where dormitories are permitted, a minimum of 75 sq. ft., 10 ft. ceiling, and 600 cu. ft. per person."³

The draft of the U.S. Department of Justice *Federal Standards for Corrections* specifies that "Dormitory living units house no more inmates than can be safely and effectively supervised in a dormitory setting with a minimum of 60 square feet of floor space per inmate (excluding activity space)."⁴

On the other hand the National Sheriff's Association states that single occupancy detention rooms should average 70 to 80 sq. ft. in area.⁵ This recommendation is supported by the Ameri-

can Correctional Association (ACA) in its *Manual of Standards for Adult Correctional Institutions*.

The ACA Standards require that cells designed for single-occupancy house only one person and that cells have at least 60 sq. ft. except the minimum increases to 80 sq. ft. if a person is held in the cell for more than 10 hours a day.^{6,7}

Such "space allocations" evolved from a clear recognition that correctional institutions must satisfy the basic human needs for a safe and wholesome environment—one in which the rehabilitation process can be enhanced. They—the standards—are heavily dependent upon the "informed judgment" of professionals who have considered and weighed the available data and the views of interested advocacy groups.

Although a numerical value (i.e., 60 sq. ft.) was ultimately decided upon, the nonabsolute nature of the data upon which it is based suggests that such value must not be taken as an absolute boundary between positively *safe* and positively *unsafe*. For example, if the safe value is 60 sq. ft. per person this cannot be interpreted as meaning that 59 sq. ft. is totally unsafe or that 61 sq. ft. is *always* safer. At best such values represent benchmarks or guidelines for preventive or corrective action.

But the voluntary or mandatory (by court order) application of these standards has generated an extensive and acrimonious debate among students of correctional administration, legal scholars, medical practitioners and environmental health specialists. The central question of debate is: Upon what bases are the standards established?

There are many possible bases for the establishment of population-density criteria and the setting of minimum space allocation standards.

¹ *Adams v. Mathis*, Civil Action No. 74-70-S, U.S. District Court for the Middle District of Alabama, February 28, 1978.

² *Bell v. Wolfish*, 47 U.S. Law Week 4507, May 14, 1979.

³ *Standards for Health Services in Correctional Institutions*, American Public Health Association, Washington, D.C. 1976.

⁴ *Federal Standards for Corrections (Draft)*, United States Department of Justice, Washington, D.C. June 1978.

⁵ *Jail Architecture*, National Sheriff's Association, Washington, D.C. 1975.

⁶ *Manual of Standards for Adult Correctional Institutions*, American Correctional Association, Rockville, Maryland, August 1977.

⁷ *Accreditation Blueprint for Corrections*, American Correctional Association, Rockville, Maryland, July 1977.

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These include (a) epidemiological studies of populations in various settings with different amounts and arrangements of space per person. Such studies can provide statistical associations between density and reported effects; (b) studies of groups of animals exposed intentionally to controlled conditions in the laboratory; (c) extrapolation of available data generated by epidemiological evaluations and medical observations based on similarity of conditions.

It is the latter basis which is the focus of this article, the objective of which is to review selected epidemiological evaluations and medical observations of infectious disease transmission which by extrapolation, suggest a rational basis for controlling population density in penal and correctional institutions.

Although the social and psychological consequences of residential crowding are of concern in current efforts to improve conditions in jails and prisons, they will not be reviewed. The reader is referred to reviews by Fischer and co-workers,⁸ Mitchell,⁹ Moos,¹⁰ and Stokols.¹¹

Historical Perspective

The need for adequate space for jail and prison inmates is not a new concern. As early as 1790, concerns about adequate space per inmate were inextricably tied to the ideas about correctional philosophy and prison management proposed by the Pennsylvania Prison Society and crystallized

into what became known as "the Pennsylvania System."

The physical plant and architectural pattern, within which these concerns were first expressed, was the Eastern Penitentiary of Pennsylvania, built in 1829 by John Haviland, an English-born Philadelphia architect who can be rightfully called the "father of prison architecture." He later planned state prisons in New Jersey, Rhode Island, Missouri and the original Tombs or City Prison of New York. The cells of these institutions, never originally occupied by more than one person, were large, 11 ft. 9 in. long, 7 ft. 6 in. wide, and 16 ft. high; the unusual size was felt to be necessary to enable inmates to have sufficient space "to live, sleep and spend their day."

The objective sought in confinement in one-man cells was not punitive. Rather the theory of the Pennsylvania reformers was that society would be best served and possible reformation of the criminal most surely promoted by preventing any close association of one criminal with another. It was hoped that adequate space would provide an environment suitable for inmates to ponder or reflect upon "the evils of their former ways and induce them to abandon their lawless conduct when finally released."¹²

Medical-Epidemiological Evaluations

Military epidemiological studies in which the population at risk can be clearly defined in terms of their numbers, their exact age and residential histories are, when properly qualified, appropriate references for assessing the health-density-confinement relationship.

Thus, one of the earliest authoritative medical observations was made by Brewer at Camp

⁸ Fischer, C.S., Baldassare, M., and Ofshe, R.J. "Crowding Studies and Urban Life: A Critical Review." *Journal of the American Institute of Planners* 6:406-418. November 1975.

⁹ Mitchell, R.E. "Cultural and Health Influences on Building, Housing and Community Standards: Cost Implication of Human Habitat." *Human Ecology* 4:297-325. October 1976.

¹⁰ Moos, R.H. *The Human Context*. Joseph Wiley and Sons. New York. 1976.

¹¹ Stokols, D. "The Experience of Crowding in Primary and Secondary Environments." *Human Ecology* 8:49-81. 1976.

¹² *Handbook of Correctional Institution Design and Construction*. U.S. Bureau of Prisons, Washington, D.C. 1949.

TABLE 1.—Influenza by Organization and Space Allowance, and by Older and Newer Organizations Camp Humphreys, Virginia, World War I

Organization	Floor space per man	Sick with influenza	Organization	Floor space per man	Sick with influenza
Older Organizations	Sq feet	Percent	Newer Organizations (sapper regiments)	Sq feet	Percent
7th Regiment	45	26.7	217th Regiment	55	24.5
3d Regiment	46	28.6	218th Regiment	59	20.8
5th Regiment	47	16.0	219th Regiment	68	19.3
2d Regiment	50	9.1	220th Regiment	103	13.6
Engineer OIS	70	8.8	215th Regiment	114	9.3
4th Regiment	75	7.4			
6th Regiment	78.5	2.5			

Source: Reference 6.

Humphreys, Virginia, during an influenza outbreak in September and October 1918. The organizations reported on were divided into two groups—those that existed for some time and those newly formed, with the assumption that the newer formed units contained a large number of susceptibles (new recruits).¹³ Table 1 from Brewer's study shows the striking inverse correlation between the amount of floor space per man and the percentages of infection in comparable organizations.

More recent health and medical literature clearly indicates that the principles involved in the disease transmission-crowding relationship have not changed substantially since the earlier activities of the Pennsylvania Prison Society and Brewer's epidemiological observations and evaluations in 1918.

For example in 1942, in response to a decision to decrease the space allowance for military personnel, an investigation similar to Brewer's was made by the Army Epidemiological Board, composed of a group of widely respected national and international experts in medicine, preventive medicine, epidemiology and public health.

That Board further confirmed the need to restrict crowding to the level produced by the allotment of 60 sq. ft. per person. In 1951 another epidemiological and medical evaluation by the Armed Forces Commission on Acute Respiratory Disease demonstrated that the acquisition of streptococci (a bacterial infection) is related to the proximity of beds (as shown in table 2).

TABLE 2.—*Rates of Acquisition of Streptococci According to Distance of Bed from the Nearest Carrier*

<i>Distance of bed from nearest carrier</i>	<i>Rates of acquisition by week</i>
Less than 10 ft.	6.7
10 to 20 ft.	5.1
20 to 30 ft.	5.1
30 to 40 ft.	3.9
More than 40 ft.	2.8

The following excerpts from a report of the Board to the Secretary of the Army is corroborative:

... In general terms it can be positively stated that the greater the crowding the greater is the risk of

an epidemic of serious proportions. The order reducing the minimum floor space per man in barracks from sixty (60) square feet to forty (40) square feet, while a military necessity, is in an undesirable direction from the standpoint of a maintenance of health. The effect of this provision not only results in overcrowding in mess halls, wash rooms, latrines, post exchanges, etc., and overloads all existing facilities.

The Board indorses the action of The Surgeon General in reiterating the desirability of restricting crowding to that level produced by the allotment of sixty (60) square feet per man.¹⁴

Again in 1952 the Armed Forces Epidemiological Control Board (successor to the Army Epidemiological Board) was asked to review its position on the space allowance of 60 sq. ft. per person. The views of the Board were stated by Dr. Colin MacLeod of New York University Medical School and president of the Board:

The recommendations of the Epidemiological Board in January 1943 called attention strongly to the danger of crowding as an important factor in increasing the spread of diseases transmitted by way of the respiratory tract. The statements are as true today as when they were made in 1943. It is strongly urged that the principles laid down then be followed in any plan for housing of our troops.

While the dangers are greatest with respect to the respiratory diseases, it should also be emphasized that the overloading of general facilities incident to crowding in barracks also increases the danger of spread of diseases transmitted by other routes, especially the gastro-intestinal diseases.¹⁵

Meningococcic¹⁶ infections are found in all parts of the world and reach their greatest prevalence during winter and early spring. In spite of the widespread distribution of the organisms, clinical disease is a rare occurrence in the civil population, the annual illness rate rarely rising above 2 or 3 per 100,000 even during periods of high prevalence. In crowded and confined populations such as military barracks and prisons, the attack rate may be many times higher and the disease may constitute a serious public health problem.

Transmission of the meningococcus appears to be always through direct respiratory (nose and mouth) spread of infected droplets. It is therefore favored by crowded living conditions which permit nose-mouth secretions of one individual to reach the nose and mouth of another. The fragility of this disease-producing organism outside the human body makes it unlikely that sources other than humans are ever significant in its spread.

Medical practitioners point out that isolation of patients is a desirable precaution but it can play only an insignificant role in the prevention of the spread of the disease. Reducing the fre-

¹³ Brewer, I.W. "Report of Epidemic of Spanish Influenza which Occurred at Camp A.A. Humphreys, Virginia during September and October." *The Journal of Laboratory and Clinical Medicine* 4:87-111. 1918.

¹⁴ Report to the Secretary of the Army Concerning Medical Implications of Space Allowance in Troop Housing. Washington, D.C. April 14, 1952.

¹⁵ Annual Report, Commission on Acute Respiratory Disease. 1951-52. Armed Forces Epidemiological Board. Washington, D.C.

¹⁶ Meningitis, an infection of the membranes (the meninges) that cover and protect the brain and spinal cord.

quency of meningococcal meningitis therefore necessitates decreasing the frequency with which the causative agent is passed from one individual to another. In the past, efforts to achieve this have been practiced only in limited population groups of institutions and military establishments. Principal dependence was placed upon reducing the amount of crowding in living and sleeping quarters.

Evidence supporting the effectiveness of this approach is provided by Millar and Alexander,¹⁷ who reported an epidemic of meningococcal disease at the U.S. Naval Training Center, San Diego, California, January to June 1963, which was enhanced by overcrowded barracks. The available space in the residential units was about 25 sq. ft. per sailor which was less than 1/2 the minimum amount of space prescribed by the Bureau of Medicine and Surgery of the U.S. Navy. No cases of the disease were reported after the Navy Command reduced the population density to provide 55 to 60 sq. ft. per person.

Turning to studies specific for jails and prisons, we cite first the study of King and Geis.¹⁸ They showed the influence of crowding on the transmission of tuberculosis on a tier of the Cook County (Illinois) Jail, which housed 107 inmates in an area of 1,980 sq. ft.

Following diagnosis of advanced tuberculosis in an inmate in the jail, tuberculin testing of other inmates to assess the degree of transmission of this destructive disease, frequently seen in the lungs, found 24 percent of the exposed inmates tuberculin positive.

Subsequent testing 3 months later of inmates on the same tier demonstrated a 71 percent conversion (negative to positive) rate; evidence of exposure of the tier population to the index patient of tuberculosis.

Earlier epidemiological and medical observations of tuberculosis in a New York correctional institution revealed conditions very similar to those reported by King and Geis and prompted the physician-researchers to conclude:

The population of a large city prison is an ideal seed bed for tuberculosis. The prison inmates live under continuous mental stress, frequently in overcrowded

and poorly ventilated quarters in close contact with each other.¹⁹

An increased rate of tuberculosis after incarceration in an overcrowded (less than 60 sq. ft. per person) Arkansas prison has also been documented.²⁰

Another contribution to the crowding-health effects data base is the study by Moser and co-workers²¹ of the Center for Disease Control, U.S. Department of Health, Education and Welfare. They investigated, in 1977, an outbreak of influenza aboard a commercial airliner which, because of an engine failure, was delayed during a takeoff attempt. The 54 passengers who developed the disease had been placed in very crowded circumstances with an influenza-stricken patient. Within 72 hours 72 percent of the passengers became ill with symptoms of cough, headache, fatigue and sore throat, strongly suggesting that the common sources of the epidemic was the one passenger who probably exposed other passengers to mouth and nose discharges (aerosols of droplets) which contained an influenza virus.

The relevance of this work to jails and prisons is that in the disabled airliner the environmental conditions were similar to those which the courts have found in many correctional institutions: overcrowded, confined, stagnant and dry airspace which increases the exposure of persons to the potentially hazardous discharges of others.

Incidence of Disease

While the incidence and prevalence of infectious diseases in American communities are not as high as in earlier periods, the American Medical Association (AMA) has found that there is an extremely high incidence of communicable diseases among inmates in United States correctional institutions. An examination of 641 prisoners showed that 48 percent had some type of infectious disease transmissible to other inmates. This prevalence rate is disturbing to the AMA because of the overcrowding so common in many jails and prisons.

Derro²² collected data which support the AMA's point of view. He conducted an extensive evaluation of health problems in an urban city-county workhouse and found that abdominal pains, a history of blood in the stool (dysentery) and diarrhea accounted for the high rank order of digestive disorders (61.9%). Sleep disturbance (79.3%) and upper and lower respiratory tract infections (71.1%) were the most common dis-

¹⁷ Millar, J.W. and Alexander, C.E. "Epidemiology of Meningococcal Disease." *Proceedings of the First Symposium on Aerobiology*. Berkeley, California, 1965.

¹⁸ King, I. and Geis, G. "Tuberculosis Transmission in a Large Urban Jail." *Journal of the American Medical Association* 237:790-793, February 21, 1978.

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ Moser, M.R., et al. "An Outbreak of Influenza Aboard a Commercial Airliner." *American Journal of Epidemiology* 1:1-6, July 1978.

²² Derro, R.A. "Health Problems in a City-County Workhouse." *Public Health Reports*, Vol. 59, No. 4, July-August 1978.

orders. Goldsmith's²² study of health problems in the overcrowded Orleans Parish Prison also corroborates the findings of the AMA.

The authors' studies of several common-vehicle epidemics in jails and prisons indicate that infectious diseases (diarrhea, dysentery, etc.) are often traceable to overtaxed and insanitary food service and/or plumbing defects caused in part by the burden placed on toilet and bathroom fixtures when the institution exceeds the capacity for which it was designed.

Excessive crowding not only impacts on the plumbing system and toilet facilities but it also reduces the effectiveness of the ventilation system—air movement, temperature regulation, removal of contaminants and body odors; all of which can adversely affect the health of the inmates. For example, lack of adequate air movement exerts an unfavorable influence on the general metabolism and on the thermal state of the body, often causing a sensation of "oppression," heat discomfort or excessive fatigue.²⁴

Disease Transmission

The transmission of airborne disease-producing bacteria and viruses from person to person is an indoor phenomenon being limited to confined atmospheres such as in jails or prison cells in which the concentration of infectious organisms can reach levels hazardous to susceptible people sharing the same air supply. The infectious particles discharged into the air by coughing, sneezing, spitting, singing, or even talking can impinge on the skin of a recipient at close range and can be deposited in the upper respiratory tract and lungs, if inhaled. The closer the range the greater the probability of the organism being deposited on another person—increasing the space between individuals decreases that probability.²⁵

It is clear that the spread of infectious diseases does not respect boundaries of race, class and definitions of pre- or posttrial detainees or similar classifications in jails and prisons. Immunity to disease can only be developed by contact with the causative organism of the disease or by artificial immunization. There are no immunizations against many of the diseases spread through the gastrointestinal and respiratory tracts. Inmates

committed to penal institutions may be immune to predominant species of disease-producing organisms in their own families or community but not necessarily to those from other families or communities.

Each person admitted to a jail or prison is a possible carrier of a potentially hazardous bacteria or virus to which his cell mate(s) and the correctional officers may be susceptible. The bringing together of persons from many communities, and confining them to crowded areas, greatly increases the probability of the spread and actual outbreaks of diseases.

Conclusion

It should not be inferred that simple data can be adduced to support specifically 60 versus 55 or 65 sq. ft. per person, in terms of incontrovertible proof. The matter rests with medical judgment and epidemiological evaluations, which often are time consuming, slow and contentious.

Moreover, there are a multitude of determinants of physical and mental diseases. In addition to the environmental determinants—living conditions, crowding and hygiene—the individual factors such as age, sex, and physiological state (e.g., condition of stress and nutritional status) play an important role in the development of disease.

As Stewart has written, "If two susceptible subjects are exposed to equal doses of the same germ, and one develops infection while the other does not, the factor governing the development of the infection clearly lies outside the germ."²⁶

But there are data available from which it can be inferred that crowding people into small areas where they are forced to breathe and too often to cough into each other's face favors the transmission of disease-producing organisms because it increases the likelihood of the organisms finding a new person and reduces the distance they—the germs—must travel between persons.

Moreover, when a cell of 60 sq. ft. or less must serve as "home" for more than one person, where feces and urine must be discharged in each other's presence, where a reasonable degree of privacy is lacking and when a person cannot vacate that environment, even for a short period, it is difficult to believe that the mind and emotion or the physical health go unscathed.

Perhaps the U.S. Court of Appeals for the District of Columbia summarized it best in a decision on another environmental health issue: The Court wrote:

²² Goldsmith, S.B. "Jailhouse Medicine—Travesty of Justice." *Health Services Reports* 87:767-774, November 1972.

²³ "Physiological Basis of Health Standards for Dwellings." *World Health Organization Technical Report, Series* 225, 1961.

²⁴ Riley, R.L. "Airborne Infection." *The American Journal of Medicine* 57:466-475, September 1974.

²⁵ Stewart, G.T. "Limitations of the Germ Theory." *The Lancet* 1:1977-2001, 1968.

Undoubtedly, certainty is the scientific ideal—to the extent that even science can be certain of its truth. But certainty in the complexities of environmental

²⁷ *Eighth Annual Report of the Council on Environmental Quality*. Washington, D.C. December 1977.

medicine may be achievable only after the fact, when scientists have the opportunity for leisurely and isolated scrutiny of an entire mechanism. Awaiting certainty will often allow for only reactive, not preventive regulation.²⁷

The Private Sector in Corrections: Contracting Probation Services from Community Organizations

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Strangely, private participation is probably lowest in the correctional system although correctional services (counseling, education, vocational training) are of the kind that can most readily be provided from other disciplines and the private sector. Recent standard-setting efforts encourage the purchase of services from non-correctional groups, including private industry, but the bulk of correctional services continues to be delivered by public personnel. (Skoler, 1976, p. 3)

IT IS INDEED ironic that the component of the criminal justice system most susceptible to the germ of private involvement—corrections—seems to be developing a number of antibodies to ward off any possible contagion. This irony is compounded by the fact that the correctional body has had a lengthy and healthy history of private participation. Perhaps the best illustration of this latter phenomenon can be seen in the area of probation where an estimated 200,000 volunteers are involved in the provision of services. In addition to the involvement of volunteers, a number of private and quasi-public organizations have established contractual relationships with public agencies to deliver a wide range of services to community-based correctional programs. For example, Vermont, under a LEAA grant, has purchased services from privately operated halfway houses and group homes (Serrill, 1976) and Middlesex County, Massachusetts, has obtained rehabilitative services for probationers from a nonprofit corporation—Middlesex County Probation Services Incorporated (Sands, 1976).

Despite these illustrations of private sector service delivery, there is some indication that a constriction of private involvement in corrections

may occur in the not-too-distant future. With the exception of the various volunteer programs, private sector involvement in community-based programs appears to be encountering both veiled and open opposition from the correctional establishment. Cooptation or refusal to authorize maximum participation are possible responses to the stimulus of private involvement. The environment is even more hostile when one examines the field of institutional corrections. This hostility is exacerbated by the increased unionization of correctional employees (Jacobs & Crotty, 1978). One might hypothesize that as this unionization increases, opposition to private sector involvement will similarly increase. As an illustration, the American Federation of State, County and Municipal Employees (AFSCME)—which represents the greatest number of organized correctional personnel—passed a resolution at its 1976 convention condemning contracts for services with private organizations (Wynne, 1978). Parenthetically, it may be noted that such contracts have been widely used for both inmate and staff training programs (Minkoff, 1971). Public employee unions can directly influence correctional policy in this area by limiting management's ability to contract for diversified services with the private sector.

In retrospect, some of these responses to private sector involvement might have been anticipated, given that the general pattern of social action in corrections seems to follow a scenario whereby private groups initiate and run programs until public agencies decide on the degree of their

respective involvement. As Fox (1977) aptly expressed it:

The pattern of social action in all fields, whether mental health, public health, control of business and commerce, policies of government, or corrections, has been that private groups supply the needed services. Second, the government begins to provide those services when a problem becomes too great to be handled by private individuals and groups. Third, governmental agencies subsidize or take over the entire function of the services. Fourth, the governmental agency providing the services may request assistance from private sources in terms of volunteer services, contractual services, or public relations eventually aimed at legislative appropriations.

Private corrections, then, is always in the process of filling gaps in governmental services as the need is viewed. (p. 385)

While filling gaps is indeed important, it is at least possible that the private sector can make a greater contribution to correctional programs. It is the purpose of this article to examine the issue of private sector involvement in corrections; more specifically, to analyze the utility of contracting probation services from community organizations, by focusing on one specific program. Additionally, future applications of private sector involvement in corrections will be explored.

The framework for this study is provided by the purchase of services concept. By contracting with private organizations, access to specialized services not normally available from public agencies may be readily obtained. For example, Philadelphia's Accelerated Rehabilitation Disposition Program (ARD)—a diversionary program for first offenders charged with nonviolent crimes—contracts for rehabilitative and supervisory services from a nonprofit drug treatment agency (Specter, 1973). Commenting on the flexibility available from similar arrangements, Sands (1976) has stated that:

It should be noted that private contractors are not under the same civil service and wages-and-hours restrictions as the government and are better able to secure the services of appropriate minority group representatives, para-professionals and former offenders, as employees. (p. 38)

In addition to the direct provision of services to clients on a simple fee basis, contracts can also be negotiated with private organizations which condition payment on some agreed upon measure of 'success' (Klein, 1976).

Given the potential benefits of a purchase of services contract with private organization(s), it is surprising that little appraisal of this type of correctional program has taken place. As a result of the author's involvement in a probation

risk assessment project during Summer 1978 an opportunity presented itself to examine one of the largest (in terms of number of clients served) "private" correctional programs in the nation—the Salvation Army Misdemeanor Probation Program (SAMP), in Florida. At this writing (Fall 1979), SAMP provides over 90 percent of all probation supervision for adult misdemeanants in the state of Florida—serving over 7,800 clients per month.

While some may question the significance of a program designed to provide probation services to misdemeanants, the National Advisory Commission on Criminal Justice Standards and Goals (1973) reminds us that:

The group that comprises the largest portion of the offender population and for which the least service is available are misdemeanants They are a major factor in the national crime problem: they tend to be repeaters; they tend to present serious behavior problems; as a group, they account for a large expenditure of public funds for arrest, trial, and confinement with little or no benefit to the community or to the offender. (p. 323)

The failure to provide probation staff, funds, and resources to misdemeanants results in the needless jailing of these offenders and, in too many cases, their eventual graduation to the ranks of felony offenders. (p. 335)

Given the fact that relatively little research has focused directly on misdemeanor probation (Soloman, 1976), it might be prudent to consider the appraisal of Dressler (1969, p. 40) that "least developed are [probation] facilities for misdemeanants. This should concern us, for these offenders as a group require as much attention as do felons."

To analyze the development of SAMP, some background in political history may be beneficial. A dispute between the Department of Offender Rehabilitation and the Parole and Probation Commission expanded to include legislative involvement. In July 1975 the state legislature attempted to resolve the conflict by removing all of the supervisory authority of the Parole and Probation Commission. This legislative action left the county courts in a quandary. Prior to this legislation, the Parole and Probation Commission had provided supervision for adult misdemeanants sentenced to probation by the county courts. Now the courts were placed in position of either having to fund and staff their own misdemeanor probation programs, of purchasing probation services from the state, of eliminating probation as an option (thereby making greater use of incarceration), or of seeking out volunteers from com-

munity organizations. Not surprisingly, the latter strategy was the most palatable alternative and the county courts tried to elicit support from a variety of organizations.

In response to this need, originating to fill gaps in the provision of correctional services, SAMP came into existence as a pilot program in Florida during October 1975. (Prior to this time, the Salvation Army had been involved in a similar program in Texas for several years.) Judicial reaction to SAMP was uniformly favorable and the program's clientele steadily increased to the point where the organization's resources were stretched to a point precluding further expansion. Recognizing that opinion leaders throughout the state were highly supportive of SAMP, such recognition being due partially to effective Salvation Army public relations, the state legislature enacted a unique piece of enabling legislation in June 1976. Known as "The Salvation Army Act," this law (CS for SB 925, now codified as § 945.30, *Florida Statutes*) provided that "anyone on probation or parole shall be required to contribute \$10 per month to a court approved public or private entity providing him with supervision and rehabilitation." Additionally, the Act specifically authorized the Salvation Army (or other approved public or private entity) to utilize its community social service facilities as an integral part of any court ordered probation program. This legislation facilitated an increase in private sector involvement in Florida corrections by providing a "piece-work" type of fiscal stimulus. It is now possible for any individual or group, approved by the judges of a particular county court, to provide probation services within that county and to collect a \$10 per month supervision fee from each client under supervision.

In addition to the Salvation Army, Pride Halfway House (a nonprofit corporation) and Palm Beach County availed themselves of the opportunity provided by this enabling legislation. Given the fact that a significant number of clients (about 30 percent) were not, and still are not, able to contribute toward the cost of their supervision, coupled with an expansion of the misdemeanor probation option, SAMP began to incur financial problems. To remedy this situation, the Act was amended by the state legislature in July 1977 to create a mechanism insuring a level of financial support necessary for the continued operation of SAMP and similar programs. The vehicle chosen for this purpose was a purchase of

services contract. Specifically, the Department of Offender Rehabilitation was authorized to contract with court approved public or private entities for provision of specific probation services. In return, these purveyors were entitled to receive an additional \$6 monthly payment for each client who was contributing toward his monthly supervision cost. It is under this purchase of services contract that the SAMP presently operates. With the operational framework in place, the Salvation Army's political resources are now being utilized to insure a continuation of legislative appropriations necessary to fund the negotiated contracts.

Under the SAMP structure, the Salvation Army supervises an active monthly caseload of over 7,800 clients in 34 counties. Often maintaining a permanent liaison officer within each county court, SAMP relies on both professional, correctional counselors and regular Salvation Army staff to supervise clients. Besides providing counseling and supervision, SAMP acts as a referral agency—channeling individuals with special needs into various programs—and also plays an active role in the area of restitution and payment of fines. This latter role can theoretically be beneficial to the client in the sense that adhering to a regular system of financial obligations may strengthen any existing attachment to conventionality. On the other hand, emphasis on this role may detract from counseling, supervision and referral. This potential danger is exacerbated by the fact that it is possible that some county court judges may perceive of SAMP as an efficient "collection agency" with its other functions seen as being somewhat ancillary.

Based on the author's 1978 statewide study, SAMP clientele were generally younger first offenders who were sentenced to probation for a 6-12 month period as a result of a conviction for petit larceny, possession of a controlled substance, or disorderly conduct. (Recently, it has been called to the author's attention that some changes in clientele composition have occurred; namely, an increase in the number of older offenders with prior convictions and the addition of groups of offenders convicted of battery, writing worthless checks, driving while intoxicated, and welfare fraud.) Most of the clientele were employed, white, urban males earning about \$400 per month in a variety of jobs. Normally, the clients were counseled on an individual basis—with a minimum of one visit per month—receiv-

ing what might be classified as minimum supervision. All other things being equal, this type of social control may be less damaging to the individual than a more intensive category of oversight (Adams, Chandler & Neithercutt, 1971).

The rationale for SAMP, as articulated by the Salvation Army (1978), has been officially stated:

Statistics show, and it has been our experience that the majority of felons have had one or more misdemeanor convictions prior to their felony convictions. We feel that our program, through proper supervision, redirection, and moral support has prevented the misdemeanor from becoming a financially burdensome felon. We feel the result is not only reducing the crime rate, but reducing the incidence of expensive wards of the state. (n.p.)

Implicit in this statement are four goals: (1) prevention of future felonies, (2) successful completion of the probation program, (3) expansion of alternatives to incarceration, and (4) cost-effectiveness.

Recognizing that evaluation of correctional programs is an exceedingly complex task (Ward, 1973; Martinson, Palmer, & Adams, 1976), the author attempted a preliminary assessment of SAMP's progress toward achieving the above-stated goals. To this end, the author examined a full population sample ($N=3320$) of cases terminated in three major urban areas from December 1976 through April 1978. These cases represented a majority of statewide SAMP terminations during the above period.

While an evaluation of goal one—prevention of future felonies would require a longitudinal study, the data did lend itself to an initial appraisal of progress toward goal two—successful completion of SAMP. Based on the coding system utilized by SAMP, table 1 shows a recorded revocation rate of only 6.3 percent.

TABLE 1.—SAMP Results

Area	Successful Completion	Revocation
Jacksonville	93.8% ($N=1130$)	6.2% ($N=70$)
Miami	87.4% ($N=879$)	12.6% ($N=111$)
Clearwater	97.4% ($N=1101$)	2.6% ($N=29$)
Total	93.7% ($N=3110$)	6.3% ($N=210$)

Given the background of SAMP's clientele and the fact that most clients (about $\frac{2}{3}$) were sentenced to less than one year's probation, certain expectations about successful completion might have been anticipated; however, this failure rate is exceptionally low, even for a nontraditional program.

As a traditional program, revocation of probation is a judicial function, resulting from a court

order normally issued at the request of the supervising agency. Slightly more than one-third, 39 percent ($N=82$), of the recorded revocations occurred for "technical violations" (e.g., failure to meet the reporting requirements), which were generally filed with the court as a last resort. The author's perception of a reluctance on the part of SAMP staff to recommend revocation on the basis of "technical violations" appeared to be related to a number of factors. If we assume that the major determinants of public (and private) policy may be discovered through an analysis of environmental demands and resources (Dye, 1976), some possible explanations for this reluctance suggest themselves. In some offices, the anticipated response from a particular court considering revocation petitions was one of admonition and subsequent extension of the probationary period; hence, it appeared that relatively few petitions were filed. In other offices, perhaps related to limited manpower for field investigation, it was the author's observation that only infrequent attempts were made to locate clients who stopped reporting on a voluntary basis—especially during the latter part of the probationary period. The tendency in a number of these cases seemed to be one of letting the probation expire without taking any formal action regarding revocation. When focusing on role perception, most SAMP staff appeared to be client-oriented and did not perceive themselves primarily as control agents (Glaser, 1969). Accordingly, while staff had information about prior convictions (e.g., "rap sheets") in their possession and could utilize the technical assistance provided by law enforcement agencies (e.g., fingerprint flash notices), minimal use seemed to be made of these resources.

Approximately two-thirds, 61 percent ($N=128$), of the recorded revocations occurred as a result of a client being arrested for the commission of a new offense while on probation. SAMP staff are usually notified when a client is arrested on a new criminal charge, via the state's computerized law enforcement information system. Such notification normally causes SAMP staff to request the relevant prosecutor's office to docket a probation violation hearing at the same time as the new case. Given that a conviction on the new charge is not required for initiating violation proceedings, rearrest is usually sufficient to trigger this action.

In summary, the author is wary of accepting official records regarding determination of proba-

tion outcome at face value—especially in a “new” program; nevertheless, the reported results are of an encouraging nature. One question raised by an earlier version of this manuscript, however, needs to be addressed. Given the supervision fees received by the contractor, would monetary factors affect the revocation of a paying client? Understandably, this question is of considerable concern and is somewhat analogous to the issue presented a number of years ago in *Tumey v. Ohio*, 273 U.S. 510 (1927)—a case which remains significant as a major precedent. This case involved the constitutionality of a fee system, whereby local judges were paid from court costs that were assessed only when a defendant was found guilty. Innocence was unprofitable. The U.S. Supreme Court held this practice to violate due process of law because the theoretically impartial judge had a financial stake in the outcome of a trial. Given the nature of the Salvation Army, the fact that over one-quarter of its clients were unable to pay supervision costs and the lack of evidence that a significant number of clients paid costs but did not otherwise comply with the conditions of probation, the author does not feel that financial considerations were related to revocation policy. In the future, however, consideration might be given to the creation of an independent audit bureau designed to serve as an external check on this type of fee-financing. Again, while SAMP appears to have considerable potential, absent baseline data as to revocation rates from comparable public programs, the results must be interpreted with caution.

Goal three—expansion of alternatives to incarceration—seems to be accomplished by definition and hence attention needs to be directed toward the final goal of cost-effectiveness. The Salvation Army has estimated its 1978 daily cost of supervision per client to be \$0.37—considerably less than the state’s 1976 cost of \$1.00 per client. Without adjusting for inflation it might be concluded that SAMP appears to be cost-effective. A final determination as to cost-effectiveness, however, would have to consider such factors as the actual cost of support provided to the program by public criminal justice agencies and the potential cost of an unsupervised probation program. For example, while the latter might minimize the mobilization of law enforcement resources to apprehend violators, it might also minimize the collection of restitution and fines.

Given the progress of SAMP toward attaining

the four goals discussed above, a number of other states appear to be greatly interested in considering a similar enabling legislation via the purchase of services framework. In anticipation of this type of legislation, the Salvation Army, with judicial approval, has begun a similar SAMP pilot program in three Mississippi cities. It is interesting to see the Florida pattern being somewhat repeated, with the combination of private sector involvement and judicial support being used as a catalyst to speed up legislative reaction.

In addition to SAMP, the Salvation Army in Florida has negotiated several purchase of services contracts with the Federal Government. One contract, with the U.S. Bureau of Prisons in 1975, established a residential program for prereleases, to provide a transitional period of adjustment prior to expiration of incarceration. Another agreement, with the U.S. Immigration and Naturalization Service, creates a mechanism by which Salvation Army resources can be utilized to provide immediate needs for recent arrivals and to assist in the enculturation process. Both of these programs indicate the Federal Government’s continued interest in seeing what the private sector can contribute to criminal justice improvement. Parenthetically, it may be noted that SAMP has been awarded a substantial LEAA grant, along with two county probation programs in New York and Illinois, to test for a relationship between risk assessment, intensity of supervision and probation success. All three of these programs are in the process of being formally evaluated by Rutgers-Newark’s School of Criminal Justice.

Conclusion

One inference that might be drawn from the preliminary analysis of SAMP is that the private sector may be able to develop new models for the effective delivery of correctional services. At least, the community of correctional practitioners might do well to keep an open mind about the feasibility of private sector programs.

In the future, notwithstanding the opposition of organized correctional personnel and some correctional administrators, experimentation with private sector involvement will undoubtedly continue. In some instances, “successful” private programs will be taken over by the public sector. As long as the client doesn’t suffer in terms of a diminution of effective service delivery, some takeovers may be considered positive, in that a greater number of individuals may be served by

increased access to a broader fiscal base. Private groups can also play a significant role after initiating programs, in terms of both oversight (monitoring) and support. Regarding the latter, Fox (1977, p. 403) has pointed out that "probably one of the greatest contributions of private organizations is the political influence they can bring to bear in a field [corrections] generally devoid of political advantage in appropriations, program improvement, and resources."

Discussion

A number of authors, including some with ideological positions as different as David Fogel (1979) and Norval Morris (1974), have suggested that we import "free-enterprise" into our prisons in the form of a voucher system. An earlier advocate of a similar plan (Greenberg, 1973, p. 217) concluded that "there is little danger that the [voucher] system we propose could increase recidivism." Recently, Jeffery (1978) proposed the creation of a private criminal justice system, utilizing a treatment voucher patterned after the educational policy espoused by economist Milton Friedman. Explicit in the Jeffery proposal is the idea of accountability.

Each defendant could spend his voucher where he wanted. If he was not helped by the clinic, then the clinic would have failed him. Unsuccessful treatments would be driven out of existence once we make those engaged in treatment responsible for the outcome of the treatment. (p. 166)

To further Jeffery's idea of accountability, one may want to consider the *incentive-fee* system suggested by Alfred Blumstein (1968) whereby private correctional corporations would receive bonus payments for each client's lack of recidivism over a given period. A somewhat similar system has been suggested by Klein (1976, p. 425) in his analysis of police diversion programs. Parenthetically, a related scheme has been tried by the City of Orange (California) Police Department. Under this program, a bonus pay plan was established whereby pay was increased by 1 percent for each 3 percent reduction in reported crime each quarter. An evaluation of this program by the Urban Institute showed that a somewhat significant reduction in burglaries did occur as a result of the plan; however, the Institute commented that the city might need to "include a financial penalty if the crime rate subsequently increases" (*The New York Times*, November 11, 1974).

In the future, perhaps evolving from the pur-

chase of services concept, one might envision the creation of a private (or quasi-public) system of community-based correctional programs. Under a framework of regulated competition within and between the two sectors, a type of "Gresham's Law of Corrections" may develop whereby effective programs drive out the ineffective. Given the significance of a financial incentive for performance in terms of both exchange and symbolic value, it is possible that a new emphasis on effectiveness may emerge. By tailoring rewards to measurable productivity, coupled with a monitoring system whereby one sector reviews the progress of the other, it is at least possible that the delivery of diversified correctional services may be significantly improved.

Prior to his death in 1979, Robert Martinson partially recanted his earlier assessment that "with few and isolated exceptions, the rehabilitative efforts [in corrections] that have been reported so far have had no appreciable effect on recidivism" (Martinson, Palmer, & Adams, 1976, p. 10). His latest position appeared to be that some programs succeeded some of the time for some clients—thereby indicating some support for a differential treatment model. Given what we already know about the sociological implications of labeling deviant behavior (Schur, 1971), is it not therefore possible that some clients are more likely to succeed under private (or quasi-public) correctional programs?

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Social Work and Criminal Justice: New Dimensions in Practice

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AT A WORKSHOP several years ago a respected colleague with over 40 years of practice in the field of juvenile justice confided to the rest of the participants that among the benefits of becoming a senior citizen was knowing what "new" approaches were worth getting excited about and which were simply old ideas being rediscovered by a new generation. There is, indeed, a depressing regularity about the cyclical quality of alternating philosophies of rehabilitation and control in criminal justice as succeeding generations of helping professionals become disenchanted with one approach or another having failed to take into consideration the inherent vulnerability of any argument concerning something as poorly understood as human behavior. In frustration we are inclined to look for someone or something to blame for our failure to predict with accuracy how thousands of unique individuals in unique environments will respond to our helping effort. Sometimes we blame the clients and declare them "untreatable." We blame our theoretical forebearers; Freud, Skinner, or Mary Richmond or our methodologies. Most often we blame one another for not having all the right answers, and our professional name-calling makes us vulnerable to attacks by others, especially in the light of the escalating competition for dwindling funding resources. Frequently concern for the client and the community get lost in the midst of these polemical discussions and everyone is the

loser. It would be a genuine mark of professional maturity if criminal justice practitioners could acknowledge openly what we know to be the truth; that people can be helped in a variety of ways, that no one approach will work with everyone, nor will any one approach work with the same person every time.

For some time now direct counseling efforts have been the methodological scapegoats in criminal justice for their failure to deliver what they promised 20 or 30 years ago in terms of altering the course of criminal careers. There is no question that social workers and other mental health practitioners naively promised too much, but the claims that casework is a "dead-end" as far as criminal justice is concerned or that psychotherapy in general is "ineffective" can be challenged. Some of the points to be made in this article are: First, that arguments about effectiveness are sometimes political and not accurate reflections of the services being offered; second, that some of the problems we experienced in applying counseling techniques to criminal justice clients were the result of narrow and unselective application of treatment models which did not take into consideration the profound treatment significance of many of the routine interventions of probation officers; and finally to make the point that counseling approaches with individuals and families have not remained static but have evolved in ways which make them more relevant to a

wider range of clientele. There is much in these contemporary approaches to social treatment that is consistent with evolving views of community-based corrections.

How Effective Are Effectiveness Studies?

Most of the claims for the ineffectiveness of psychotherapy and one-to-one counseling originated in Esynick's studies published in 1959 and 1965. Esynick's pronouncements about the ineffectiveness of conventional psychotherapy have assumed the status of the graven tablets of Moses in spite of the fact that Esynick has been challenged on the basis of his methodology, his scholarship and his conclusions. For example, Esynick's first report was based on only four studies of psychotherapy when 30 were available, many of which indicated effectiveness.¹ By 1964 there had been at least 70 control studies on the effects of psychotherapy, but again Esynick's 1965 conclusions were based on a small unrepresentative example of the available evidence. Meltzoff and Kornreich comment, "the widespread myth that controlled, evaluative studies have not been done has been passed along to those of us who relied upon Esynick's reviews but did not ourselves examine the literature in depth. It had become almost customary for researchers and reviewers alike to introduce their papers with the erroneous observation that few studies on the effectiveness of psychotherapy exist."²

Meltzoff and Kornreich conducted their own review of 101 studies on the effectiveness of psychotherapy. They concluded on the basis of their review that the weight of experimental evidence is sufficient to enable them to reject the null hypothesis that psychotherapy is ineffective. Far more often than not, psychotherapy of a wide variety of types and with a broad range of disorders has been demonstrated under controlled conditions to be accompanied by positive changes in adjustment that significantly exceed those that can be accounted for by the passage of time alone. In addition they found that the more carefully controlled the study, that is, the more sophisticated the research methodology, the more likely the study was to demonstrate the effectiveness of psychotherapy.³

It is important at this point to make clear that this is not an argument for psychotherapy or

intensive treatment of all criminal justice clients, nor is it a denial of the fact that treatment often is ineffective and even destructive. The point is being made that the polemical discussions about what approach to helping works or does not work are often waged without any serious consideration into the validity of the arguments or the actual relevance of the method to the clients involved. Academic careers are often built on the basis of such publicized debates. Academic institutions and other service organizations are frequently dependent financially on the grant research money, and the eventual findings of the research are often immaterial. The politics of funding are such that the funding resources are much more anxious to make money available to constituencies with more clout than helping professionals have, and to claim that a particular group "has failed to demonstrate their effectiveness" is a handy excuse, valid or not, to redistribute the funds in other ways. Wilks and Martinson refer to the way in which findings of their study on the effectiveness of incarceration were used to support arguments for mandatory sentencing in spite of their findings that offenders placed on probation almost inevitably perform better relative to recidivism than do those of similar background and criminal history who are placed in prison.⁴

We are also becoming more aware of the fact that many of the effectiveness studies reflected not so much the ineffectiveness of casework or psychotherapy as it did the ineffectiveness of the research methodology to measure such variables. There are many areas of specialization within research, and researchers trained in survey, evaluation, and other forms of research dealing with aggregate data are often not knowledgeable about some of the special problems involved in conducting research on clinical treatment models.

Understanding "Real Treatment"

In the past, "treatment" of the criminal offender tended to be viewed undimensionally with little recognition of the reality that no one model will be equally relevant to all types of correctional clients. In addition, the nature of criminal justice practice is such that we are often involved in long-term relationships with our clients and that unique adaptations of existing models must be made in order to accommodate to this fact and other realities of correctional practice. For example, long-term or intensive clinically oriented treatment may be relevant to a relatively small

¹ J. Meltzoff and M. Kornreich, *Research in Psychotherapy*. New York: Atherton Press, 1970, p. 973.

² *Ibid.*, p. 74.

³ *Ibid.*, p. 100.

⁴ J. Wilks and R. Martinson, "Is the Treatment of Criminal Offenders Really Necessary?" *FEDERAL PROBATION* 40:1, p. 3.

portion of offenders. It may be most relevant early in our contact with them or at points of crisis, but we know from experience that long-term intensive clinically oriented counseling geared toward personality restructuring is neither relevant nor necessary with the *majority* of our clients. By the same token, although we can derive much that is useful from short-term treatment models, the nature of our extended relationship with probationers and parolees means certain adaptations must be made in short-term treatment models.

An unfortunate side effect of a too narrow view of "treatment" is the fact that probation officers are prevented from recognizing the value of what they do, those tasks that are not included within more traditional definitions of counseling or therapy. Narrow methodological adherence promotes the idea that anything less than long-term, intensive counseling oriented to achieve personality restructuring is second best or "band-aid" help. Because this clinical model was upheld as a *sine qua non* of professional practice, we do not value the important, significant and highly skilled work we do with people in other ways. We depreciate our high level performance in the difficult tasks of working effectively with a client's environment to promote a more receptive milieu that helps modify destructive behavior. We are led to believe that anything short-term, reality oriented, or concerned with concrete services and environmental intervention is somehow not "real treatment." It is important to understand that "real treatment" is a status game that professionals play with one another. It has very little to do with actual, significant help to people in need. Real treatment can be understood as any kind of purposeful intervention rendered within the context of an ethically bound professional relationship and directed toward aiding the client in easing some problematic aspect of his or her functioning. The "realness" of the treatment should not be based on the extent to which it adheres to a particular theoretical framework or how much other professionals are impressed by the technique. A more rational basis for evaluation is in terms of the extent to which it is appropriate to the client and the particular case situation. Is it meeting some real need? Is it likely to produce some real change in the situation for the better? Can the client and other people involved make some real use of the help you are offering?

Some of the narrower treatment methodologies

assumed that the individual client was inevitably the target of change. Whether or not one talked in terms of short-term or long-term treatments or intensive or nonintensive psychotherapy the basic assumption was the person who needed changing was the client. Practice wisdom tells us that this is not always the case. Sometimes the most realistic target for change is a significant person in the client's environment. Sometimes it is the family system or the larger society which has denied resources and opportunities to the client to fulfill necessary role expectations. Sometimes it is, indeed, the client who must change, but our knowledge of the situation tells us that change can be induced more readily if changes in other systems occur first. The relevance of this point is that the adjustment of the individual can be enhanced by intervention in a variety of ways, and that no one single technique is necessarily more likely than another to produce more positive social functioning. Periodic interviews with a client's wife may be much more effective than long-term intensive interviews with the client himself. Using your clout to relieve a client of a dunning creditor may be more significant than helping the client ventilate his anger and rage over the experience. We are not talking in either/or terms. We are saying that no technique is inherently better than any other technique, or is a more "real" form of treatment, and that the final decision rests on the basis of the professional judgment of the practitioner who bases his decision in turn on an indepth knowledge of the client, his situation, and the interventive alternatives available. Many probation officers have conducted their practice in this way for many years, and for them there is nothing new in such a point of view. What may be new is the acknowledgement that this represents the highest form of professional service, one which involves a myriad assortment of skills, knowledge and expertise.

Social Work Insight for Criminal Justice

In spite of the scapegoating role social work has assumed in recent years it still has much to offer the criminal justice practitioner and client including the broadened perspective on direct treatment outlined above. Some of these insights represent discoveries of old truths rather than new knowledge. Application of new concepts arising from systems theory has helped social work clarify the significance and implications of its

long-term traditional focus on the "person-in-the-environment" and the nature of the interaction between the two, a focus, incidentally, particularly relevant to criminal justice practice. Social workers are also developing techniques of assessment and intervention focused on current functioning and ongoing social interaction rather than on psychosexual and early childhood development. They are redefining their professional activity in terms of the multiple forms of activities they perform with a wide range of clients in many different types of service settings, activities which include but which are in no way limited to direct counseling with individuals around psychological and personality problems. A typical listing of such role behaviors includes professional tasks involving advocacy and brokerage functions in addition to those of therapist, counselor, and teacher.

The role of the advocate is a familiar one to probation officers, and it is likely that the advocate role is assumed more frequently in behalf of a client outside of rather than in the courtroom. Probation officers must frequently act as an advocate with employers, with family and neighbors, with public welfare agencies, or investigative agents, "pleading the cause" for clients who lack the skill, opportunity or the influence to do so for themselves. Advocacy assumes a broad and sophisticated attitude toward assessment or "diagnosis" that recognizes from the outset that some of the options for bringing about change in a situation lie in the environmental systems impinging on the client. It further assumes a complicated array of skills and knowledge in dealing with many different kinds of individuals, groups and organizations in ways that will enhance rather than alienate their interaction with the probationer.

Brokerage functions are also familiar to probation staff and there is one school of thought that suggests this is the only real function probation officers should render, the linking up of the client with community based agencies that can do the therapy, the counseling, the employment placement, and all the other types of services probationers and parolees need. The experienced practitioner knows that this is a very involved and time-consuming function, one which requires much more than developing a list of agency names and telephone numbers which can be handed over to the client. If this is all there was to it a part-time clerk could do the job. *Effective*

brokerage services mean knowing both the client and the community resources very well. It means constant surveillance of these resources to keep up-to-date on policy and personnel changes, shifts in service philosophy, special programs, and how individual staff are going to receive and follow through with the correctional client. It often means a massive education task with community resources to preclude their overt or passive rejection of clients simply on the basis of their being offenders (and therefore psychopaths and therefore untreatable). Effective brokering also requires a sensitive awareness of the particular stresses and strains the client and family may be experiencing relative to a referral to another resource, and the skill to use this understanding to maximize the chances that the referral will "take." Finally, it means sticking with the client to see what does happen and if a first referral falls apart, to hang in there until the need is met in some way. This is a valuable service, indeed, but whether it is the only one that probation officers should offer seems unrealistic given the practice reality.

By using some of the skills mentioned above, the probation officer can greatly increase the probability that the client will receive needed services from those community based resources best equipped to provide them, and this is a most efficient use of everyone's time and money. The reality is, however, that there are many communities lacking the needed resources. If the resources exist they may be poorly run, inadequately staffed or funded, just generally incompetent or reluctant to include offenders in their client group. Even when adequate services exist the client may be unwilling or unable to make the best use of them. In those situations it is not acceptable to just throw up one's hands and give up. Probation officers have the responsibility to do what they can within the limits of their skill and what the client is willing to accept to remedy the situation in some way. If the local family service agency has a 3-month waiting list it is unrealistic to ignore the current marital pressures a client is experiencing if the probation officer has the skill to intervene in a situation to prevent it from escalating or to bring about some positive improvement. A timely, short-term intervention by a probation officer who has already developed a trust relationship and who has demonstrated consistent interest and concern may be far more potent than a new relationship with an unknown

counselor no matter how skilled that person may be.

In addition we must keep in mind the significance of the probation and parole officer as a "teacher" or educator. Some of our clients come from backgrounds in which they had not had the opportunity to understand the expectations of normal role behavior. It is difficult for a young adult to perform adequately in the role of worker if no one in his family has ever been employed in a well-paying, steady, secure job for a long period of time. It is difficult for individuals who have themselves never experienced a stable family life or mature nonpunitive parenting to know what is required in the establishment of a marital relationship and the rearing of children. It is difficult for any individual to make a transition from an institutional life with its unique set of role behavior and interpersonal transactions to have to learn or relearn different modes of behavior in the free community.

A recent development in criminal justice which has confused practitioners as to their counseling role with clients has been the increasing emphasis on civil rights of offenders and some question as to whether or not we have the right to do anything other than provide control and surveillance. Clearly there are politics involved in that debate also, but as professionals there are certain ethical and value positions that must be explicated. Many of the abuses of clients' rights as far as "treatment" was concerned occurred because helping professionals assumed that all offender clients were psychiatrically disabled patients. It was assumed further that because of their offender status and the presumed threat to the larger community they were a captive clientele and could be subjected voluntarily or not to any effort on the part of helping professionals intended to "make them well" or protect the community. The fact is that being an offender is a legal definition and not a psychiatric diagnosis. The offender group is probably much more like the population as a whole than most people are willing to acknowledge, if self report studies of crime and delinquency are any indication. Our pragmatic experience tells us that those factors that determine when and how a person first becomes labelled as deviant and is processed through the criminal justice system have little or nothing to do with the innate psychological makeup of the individual involved.

But criminal justice clients are human beings

and they function in a real and problematic world. They, like all of us, will have ongoing problems in social functioning. They experience the predictable traumas of adolescence, marriage, ill health, aging, and a range of other kinds of crises that occur in the life of most of us. In addition they will have to deal with other types of problems of interaction with their environment because they are probationers or parolees. We have the skills to enhance their ability to cope with these problems more effectively and to help moderate, relieve some of the stresses of the environment by intervening with family, employer, mental health or welfare agencies and other significant institutions as described above. We have the professional training, the experience and the skill to assist clients in more effective problem-solving generally, to direct them to more effective styles of living, and to provide linkages for them with resources in the community that can help them live more satisfying lives. To refuse to offer these services to offender clients in the name of their "civil rights" seems a very perverse, cynical and unrealistic view of the total situation.

We do have to be clear about rights' violations. We do not impose our helping efforts on someone who clearly sees no need, will not benefit or refuses to cooperate in these efforts. We do have a responsibility, however, to interpret to all clients the availability of such services, our skills in helping them to negotiate ordinary and extraordinary developmental or life stage problems, and our conviction, when it exists, that we can make a significant and positive impact on their lives by so doing. We have, in short, the right to "sell" our skills to clients. This does involve the conviction, however, that we do have an important function to perform, that rights will be protected in the process and that the services we have to offer are professional, effective and of real worth.

The message is that we have to develop an accurate perception of what probation and parole services have to offer offenders and their communities, and the skills to document and communicate these perceptions to one another, to clients, to administrators and to funding sources. How we define our services need not be methodologically respectable or "fashionable" as long as we render it responsibly with due recognition of client rights and assume as part of our professional responsibility our ongoing, unbiased and

nonpolitical assessment of its effectiveness. It is often suggested that helping professionals avoid evaluations of effectiveness out of fear of having

their inadequacies exposed; however, there is evidence to suggest that rational, well-designed studies may turn out to be our ace in the hole.

Looking at the Law

BY JUDD D. KUTCHER

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YOUTH CORRECTIONS ACT; SECTION 5010(D)

Many probation officers inquire whether section 5010(d) of title 18 is a YCA "sentencing" provision. The few cases which have commented on the sentencing options under the YCA include in their consideration sections 5010(a), (b), or (c), but not section 5010(d). See e.g., *Dorszynski v. United States*, 418 U.S. 424, 434 (1974); *United States v. Jackson*, 550 F.2d 830 (2d Cir. 1977); *United States v. Cruz*, 544 F.2d 1162 (2d Cir. 1976).

Section 5010(d) refers to a "youth offender." That reference relates to persons age eligible to be sentenced under the YCA, rather than persons a court has already determined to sentence under the YCA. Where a court determines that an age eligible person would not benefit from YCA treatment, section 5010(d) empowers the court to sentence the youth as an adult.

LEGAL RESPONSIBILITY, COMMUNITY TREATMENT CENTERS (CTC's)

CTC's may place ex-offenders (probationers or parolees) in situations where a third party may be injured. So two questions quickly arise: Do CTC employees have a responsibility to minimize risks posed by ex-offenders in their custody? Might CTC employees be subject to suits by ex-offenders for actions taken to meet that responsibility?

It appears to me that a CTC's responsibility in job placement is analogous to that of a probation or parole officer in similar circumstances. Case law has established that those correctional officers have a special obligation to warn a prospective employee of a reasonably foreseeable danger connected with the employment of a probationer or parolee placed in a particular job, or otherwise to act to minimize the perceived risk. See e.g., *Reiser v. District of Columbia*, 563 F.2d 462 (D.C. Cir.), vacated reh. en banc (1977); *Johnson v. State*, 73 Cal. Rptr. 232, 447 P.2d 352 (Sup. Ct. 1968). See *Thompson v. County of Alameda*, 24 Crim. L. Rptr. 1089 (Jan. 30, 1979); *Johnson v. State*, 73 Cal. Rptr. 232, 447 P.2d 352 (Sup. Ct. 1968); *Georgen v. State*, 18 Misc.2d 1085, 196 N.Y.S. 2d 455 (1956). Courts have recognized that this responsibility also applies to other persons or organizations having control of ex-offenders, for example, the Job Corps. See *Gibson v. United States*, 457 F.2d 1391 (3rd Cir. 1972).

Assuming a CTC has a legal responsibility to the public, it seems that CTC employees acting to fulfill that responsibility would have immunity from suits by an ex-offender. In such circumstances a CTC employee, like a probation officer, would be considered to be performing duties akin to the judicial process. He would be either acting in compliance with a directive from a

court or the Parole Commission and, thus, be clothed in the judicial or quasi-judicial immunity of his superior, or he would be exercising quasi-judicial discretion delegated by his superior.

Thus placing a probationer or parolee in a circumstance where it is reasonably foreseeable that he may injure an employer or a member of the public establishes a special duty of care, if a CTC has (1) custody of the ex-offender and has (2) relevant information not readily discoverable by the prospective employer. *Id.* In such circumstances, the prospective employer should not be misled. He should be put on notice of the possible physical or financial risk involved in employing the probationer or parolee. Alternatively, the CTC may take steps to monitor and control the ex-offender's behavior sufficient to minimize the perceived risk of injury. See *Waits v. McGowan*, 516 F.2d 203, 206 (3rd Cir. 1975); *Fowler v. Alexander*, 478 F.2d 694, 696 (4th Cir. 1973) (sheriff and jailer confining plaintiff temporarily were executing a court order and immune). See also *Lockart v. Hornstine*, 411 F.2d 455 (3rd Cir. 1969), cert. denied, 395 U.S. 941 (1969).

Any question concerning a CTC's legal responsibility or a CTC's immunity from civil suit would be clarified if a court or the Parole Commission instructed the CTC to abide by, or be guided by, legal responsibility guidelines such as the "Federal Probation Division's Guidelines on Employment Placement." Under such guidelines, probation officer would either be given an explicit directive to take certain action, creating a ministerial duty clothed in the court's judicial immunity, or be given an explicit directive to exercise his own quasi-judicial discretion in the matter.

18 U.S.C. § 2515, PROHIBITION ON USE OF ILLEGALLY INTERCEPTED WIRE OR ORAL COMMUNICATIONS

Section 2515 prohibits the use of illegally intercepted wire or oral communications as evidence "in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency . . ." (Emphasis added.) The application of this statute raises two questions affecting sentencing procedures: (1) whether illegally seized wiretap evidence may be used in revocation proceedings and (2) whether illegally seized wiretap information may be used in presentence reports prepared for purposes of sentencing proceedings.

The language of section 2515, its legislative history, and relevant case law all support the view that no illegally intercepted wire or oral communications may be received in a probation revocation proceeding. By inference, the statute would also appear to bar the inclusion of such information in a presentence report.

The legislative history notes that this statutory ex-

clusionary rule was intended to protect privacy, to protect the integrity of courts, and to protect the integrity of administrative proceedings. 1968 U.S. Code Cong. & Admin. News 2177. In order to achieve those objectives, Congress drafted the statute in a manner intended to reach every conceivable forum in which a party might seek to introduce such evidence. *Id.*

The only court to rule on whether section 2515 applies to probation revocation proceedings held that the statutory exclusionary rule barred use of such evidence in a revocation hearing. *United States v. Manussak*, 438 F. Supp. 613 (E.D. Pa. 1977). The court found that a probation revocation hearing is a "proceeding within section 2515," and that a probationer facing revocation is among the class of persons entitled to make a motion to suppress information excluded by section 2515. *Id.* 617. See *United States v. Frederickson*, 581 F.2d 711, 714 (8th Cir. 1978). See also *United States v. Cianfrani*, 448 F. Supp. 1102 (E.D. Pa. 1978). According to *Manussak*, judicial decisions declaring the exclusionary rule inapplicable to use of illegally seized evidence in probation revocation proceedings do not cover illegally seized wire or oral communications. The statutory exclusionary rule, *Manussak* suggests, is broader than the judge-made exclusionary rule.

The practical application of section 2515 to presentence reports presents a problem. Established case law, e.g., *Williams v. New York*, 337 U.S. 241, 249-51 (1969), as well as a Federal statute enacted to codify expressly the principle that a sentencing court should have use of all available information for sentencing purposes, 18 U.S.C. § 3577 (1976), appears to conflict with section 2515's broad prohibition against using illegally seized wire or oral communications. According to the applicable canon of statutory construction, an apparent conflict between two statutes should be harmonized, giving preference to the statute which speaks most specifically to the subject matter. Therefore, I conclude that section 2515, speaking directly to oral or wire communications, would govern section 3577.

Since only one district court has ruled on this issue, probation officers should not automatically omit such information from revocation proceedings or presentence reports. Rather, it would be prudent for probation officers to advise the court that the information is derived from an illegal wiretap. Thus in a probation revocation, a probation officer should apprise the court of the status of the information and of the *Manussak* decision. In the context of presentence reports, the possibly tainted information should be included in the presentence report, but with appropriate clarification noting that it may be improper for the court to rely on it.

MISCELLANEOUS CASES

Probation; Search and Seizure, Urinalysis

A probationer who has a condition of probation requiring that he submit to periodic urinalysis may be revoked for failure to submit to such a urinalysis. *State v. Jensen*, 597 P.2d 554 (ct. App. Ariz. 1979).

Probation; Search and Seizure

A search condition that permits the probation officer in charge of supervision to search the person or dwelling of the probationer is valid. Any evidence seized during such a search or in plain view (in a shared residence) is admissible in a criminal trial. *Grubbs v. State*, 25 Cr. Law Rptr. 2459 (Sup. Ct. Fla. 1979). But such a search condition of probation must have a relationship to the crime for which the individual is committed.

People v. Knox, 157 Cal. Rptr. 238 (Cal. Court of Appeals 1979).

Probation Condition, Search and Seizure

An initial entry by a probation officer into a probationer's trailer was proper as a justifiable "visit." And once inside, the probation officer's discovery of cocaine in plain view furnished the desired probable cause to seize the contraband and to search other areas of the trailer. *Soroka v. State*, 598 P.2d 60 (Alaska Sup. Ct. July 27, 1979).

Parole Condition; Search and Seizure

A parole officer other than the officer assigned to supervise the parolee, who is not supervising the parolee in any manner, may not undertake to search premises rented by the parolee. Evidence seized by such a search without a warrant required exclusion in criminal proceedings. *Commonwealth v. Berry*, 401 A.2d 1230 (Super. Ct. Pa. 1979).

Probation Condition; Geographic Restriction

Forbidding a probationer from entering specific areas no matter what the time of day is unreasonable according to California state law. Moreover, such a condition, even when designed to keep prostitutes away from certain parts of town, violates the constitutional right to interstate travel. More limited bans, however, would be permissible. For example, a general ban with exceptions for trips to the area at certain hours and for enumerated purposes, or barring the probationer from entering specific places such as bars, movies, hotels, etc., would be proper. *In re White*, 26 Cr. Law Rptr. 1018 (Cal. Ct. App., 5th Dist., September 24, 1979).

Probation Condition; Association

The condition of probation that the probationer associate with only "law abiding" persons is not void for vagueness. It applies to individuals who were convicted of offenses and are not presently law abiding, and also to persons under criminal charge or engaged in criminal activities. "Association" involves a planned meeting or contacts of a prolonged nature. For example, a lunch with an individual who has been convicted of a crime in the recent past is a planned meeting and, therefore, may be grounds for revocation of probation. *United States v. Furukawa*, 596 F.2d 921 (9th Cir. 1979).

PROBATION CONDITION; RESTRICTION ON STATE POLITICAL ACTIVITIES

A Federal probation condition barring a former Louisiana congressman convicted of violating Federal Election Campaign Act, from engaging in both State or Federal political activity comports with the Federal Probation Act, 18 U.S.C. § 3651, and does not violate the probationer's first amendment rights. The condition removes the probationer who has evidenced disregard for Federal election laws, from the political process and, therefore, keeps him away from "situations that might appeal to his demonstrated propensity to overstep the bounds of legality to obtain political advantage." The condition does not totally restrict the probationer's first amendment rights—it focuses only on politically related activities. *United States v. Towry*, 26 Cr. Law Rptr. 2161 (5th Cir., October 9, 1979).

PROBATION CONDITION; COST OF APPOINTED COUNSEL

According to the Fifth Circuit, a condition of probation calling for repayment of the cost of an appointed counsel is improper. Section 3651 of title 18, United States Code, lists three monetary payments on which

probation may be conditioned: fines, restitution, and support payments. Repayment of court-appointed counsel is not among these conditions. And repayment of such a condition is not a "fine" within the meaning of § 3651. Compare *United States v. Santarpio*, 560 F.2d 448, 455 (1st Cir. cert. denied, *Schepici v. United States*, 434 U.S. 984 (1977)). Nor is it "restitution." In addition, a repayment condition cannot stand in any event, unless it provides that the repayment will be excused if the defendant is unable to pay, the ability to pay being determined at the time of the imposition of the condition. *United States v. Jimenez*, No. 78-5386 (5th Cir. 1979); *Santarpio*, *supra*. Compare *United States v. Allen*, 596 F.2d 227 (5th Cir. 1979). In *Allen*, the court ruled that a condition of probation that the defendant repay the court for providing a defense is reasonable where the defendant was not in fact indigent. *United States v. Allen*, 596 F.2d 227 (7th Cir. 1979).

PROBATION REVOCATION; FIFTH AMENDMENT

The conduct of a probation revocation hearing prior to the trial on the criminal charges which acts form the basis for revocation of probation does not violate the fifth amendment privilege against self-incrimination or force the individual to make a constitutionally impermissible election between exercising that privilege or presenting a defense in the probation revocation proceeding. If the probationer is aware of the privilege, speaking at the revocation hearing, might waive it. *United States v. Rilliet*, 595 F.2d 1138 (9th Cir. 1979).

YOUTH CORRECTIONS ACT; USE OF SET ASIDE CONVICTION

According to the Tenth Circuit nothing requires a sentencing judge to "erase from his memory" his personal knowledge of a set aside conviction. Such a requirement would be unrealistic and would contravene public policy, which affords broad discretion to the sentencing judge. *United States v. Klusman*, 26 Cr. Law Rptr. 2163 (Oct. 17, 1979).

RESTITUTION; AGGRIEVED PARTIES

All 3,197 individuals joined in a class suit arising out of a criminal case were "aggrieved parties" under § 3651 even though they were not all named in the criminal indictment. *Stovall v. United States*, ____ F.2d ____ (7th Cir. 1979); cert. denied, No. 78-1494, 26 Cr. Law Rptr. 4003 (Oct. 3, 1979).

RESTITUTION; CONSPIRACY

The Second Circuit has held that a \$100,000 restitution may be ordered with respect to defendants only convicted of a conspiracy. *United States v. Tiler*, 602 F.2d 30 (2nd Cir. 1979). Compare *United States v. Clovis Retail Liquor Dealers Trade Assn.*, 540 F.2d 1389 (10th Cir. 1976).

RESTITUTION; PLEA AGREEMENT

Where a defendant accepts a plea agreement which makes no reference to restitution as a condition of probation, the court may not subsequently impose a restitution condition. *United States v. Runck*, 601 F.2d 968 (8th Cir. 1979).

News of the Future

RESEARCH AND DEVELOPMENT IN CORRECTIONS

By JOHN P. CONRAD

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IN THE LATE 1940's, when my correctional career began, California's criminally insane were housed at the Mendocino State Hospital, about 100 miles north of San Francisco. Although the location is pleasant, the distance from the metropolis prevented the recruitment of a full complement of professionals to run the place, and the population then mostly consisted of the criminally insane and the backwards. At San Quentin, where I was stationed, Mendocino had a fearful reputation. Prisoners with mental problems who did not cooperate with the San Quentin version of psychiatry were threatened with a transfer to Mendocino, where, it seemed, the staff had greater latitude in the methods of control that could be administered to the refractory. The intimation that such a transfer was under consideration worked wonders in the behavior of many of our most troublesome prisoner-patients. Enough of them returned to San Quentin after having achieved the maximum benefit of treatment—as the saying goes—to spread the word that whatever one thought of San Quentin, there was one place that was incontestably worse.

A visit to Mendocino in those days was a sobering experience. A look at the case records showed that not many patients saw a professional person of any descrip-

tion from one end of the year to another. The criminally insane were locked up in a cell-block with no facilities outside of the cells in which they were kept. Some of the men in the unit had been there for 20 years or more on charges that had been trivial in the first place. Mendocino had to go, and it did. California now has the Atascadero State Hospital, also in a beautiful but inconveniently remote location, where the temper of the times and an increased sensitivity to the decencies appropriate to a hospital of any kind have certainly moderated the regime to which mentally disturbed offenders in California are subjected. It is still a disturbing place to anyone concerned with the limits of state power over individual citizens. It is one of that special class of incarcerative facilities in which the psychiatrist has become the chief jailer, thereby vastly enhancing the authority of the institution and its staff over its prisoner-patients. Those who firmly believe in the efficacy of coerced therapy in the relief of mental illness are not much troubled by such facilities or their standards of care. Believing, as I do, that coercion and therapy constitute a noxious mixture for most mental conditions, I have long doubted that such facilities have a place in a humane and enlightened society.

THE INTRUSION OF THE COURTS

Over the last 15 years the courts have taken a lively interest in this previously untroubled domain of absolutism. In the landmark case of *Baxstrom v. Herold*, the United States Supreme Court decided that the plaintiff, Baxstrom, whose criminal sentence had expired while a patient at Dannemora State Hospital in New York, could not be civilly committed to the same hospital without benefit of a jury trial.¹ That decision led to the transfer of the plaintiff and 966 others to ordinary mental hospitals for evaluation of their mental condition. Some of them were retained as still mentally ill, but most were eventually released to the community. Study of their subsequent careers showed that as a group they were not nearly as dangerous as the myth about the "criminally insane" would repute them to be. Indeed, over a 4-year followup period, only 20.4 percent of a sample of 98 were rearrested for any offense at all.² It followed from this finding that the restraint of the dangerous was not a valid excuse for maintaining hospitals for the criminally insane, for apparently very few of the Baxstrom class of patients at Dannemora showed any inclination to be violent or even to commit a lesser property crime.

Taking a cue from New York, Richard Bazelon, a Philadelphia lawyer and the son of a distinguished judge, David L. Bazelon, opened fire on the Pennsylvania counterpart of Dannemora, the Farview State Hospital, also reserved for the care of the criminally insane. The case was *Dixon v. Attorney General of the Commonwealth of Pennsylvania*, and it challenged the constitutionality of their commitment to Farview under the provisions of Pennsylvania law on the status of the criminally insane. That law was generally similar to the New York law, and permitted the commitment of persons whose criminal sentence had expired without the due process of a hearing or a jury trial. The court held for the plaintiffs and indirectly for 586 inmates of Farview.³

That decision resulted in a process similar to the outcome of the Baxstrom decision. It also led to the remarkable study by Thornberry and Jacoby which is the subject of my consideration in this issue.⁴ From the inception of the lawsuit, Richard Bazelon had it in mind to make its outcome the basis for an exhaustive project to determine what could be learned about the nature and requirements of the prisoner-patients who would be the beneficiaries of a decision in their favor. Thornberry and Jacoby, disciples of Thorsten Sellin and Marvin Wolfgang at the University of Pennsylvania, seized the opportunity and their report of the natural experiment that ensued from the case is a model of what such a study should be. It also wipes out the assumptions that have hitherto justified the maintenance of these awful travesties on justice and psychiatry that have been established as hospitals for the criminally insane. The book does not tell us what to do with Son of Sam and similar wretches, but it leaves no doubt about the complete futility of barbarisms like Farview—of which there are still some to be closed down.

THE RESEARCH

With commendable disdain, the authors begin with an

¹ *Baxstrom v. Herold*, 383 U.S. 107, (1966).
² Henry J. Steadman and Joseph J. Cocozza, *Careers of the Criminally Insane*. (Lexington, Massachusetts, Lexington Books, 1974), p. 139.

³ *Dixon, Donald, et al. v. Attorney General of the Commonwealth of Pennsylvania*, 325 F. Supp. 966 (1971).
⁴ Terence P. Thornberry and Joseph E. Jacoby, *The Criminally Insane: A Community Follow-up of Mentally Ill Offenders* (Chicago and London, The University of Chicago Press, 1979).

account of the nominal professional staffing of Farview, its general routine of inactivity, the frequent and unconcealed brutality of the 400 "psychiatric security aides." The rest of the study is a straightforward statistical accounting of what went into the black box, what came out and with what results.

As a natural experiment, the Dixon decision was an event that uniformly affected 586 subjects, the prisoner-patients at Farview; the question for the sociologist was to discriminate the results. The assumptions that put them into Farview and kept them there were that they were mad and that their madness caused them to commit crimes. To protect the public from these men who were so disturbed that they could not be affected by the normal operations of the criminal justice system, they were "hospitalized," by order of the court, and until they had been cured of their madness they would continue to be confined. At the center of these assumptions there was the supposition that they were dangerous men, capable of crimes of the utmost gravity committed for reasons beyond the ken of ordinary men and women. Inspection of the records revealed that 53.7 percent had been committed for crimes of violence, while 28.9 percent were property offenders and another 12.9 percent had been committed for public order or victimless crimes. The mean length of stay at Farview was 14.08 years, and at the time of their transfer from the hospital as a consequence of the Dixon decision, their mean age was 47.10 years. They were overwhelmingly an undereducated group; nearly 80 percent had less than 8 years of school. Most of them were unskilled workers, most of them were losers with long records of previous arrests; only 18.6 percent had never been arrested. A lot of them were no strangers to mental hospitals; 43.3 percent had had one or more previous hospitalizations.

At Farview most of them had complied with the undemanding requirements of the regime; of the 586 subjects, 330 had had no incident reports; 129 had had only one, 127 had had two or more—21.7 percent of the total. These 256 individuals compiled 630 incident reports over the years of their confinement, and most of them involved some kind of violence inflicted on self or others. Concerning this finding the authors say:

"The picture that emerges . . . is one in which physical violence is the mode but not one in which the Dixon patient was always the offender . . . Indeed, the Dixon subject was about as likely to be the victim of an assault as he was to be the offender." (pp. 80-81) The data presented show that only 20 percent of the 630 incidents were clearly initiated by the inmate; the rest were fights and situations where the inmate was the victim. Considering that these incidents represented all the trouble committed by 256 individuals who averaged over 14 years of hospitalization, the picture is one of remarkable tranquillity, if a comparison is to be made with the expectation of raging and unpredictable turmoil. It is about what would be expected in a facility in which inactivity is the mode, inactivity under the control of 400 guards with a reputation for physical abuse of those who resist the regime. At the court hearing, one inmate described his days on the ward in these terms:

"Well, there's close to a hundred individuals to a ward and all types of personalities. Some participate in games, playing checkers and chess and cards, but more or less most of them are just sitting around on the benches or chairs. Q. Just sitting and doing nothing? A. Just sitting and doing nothing. Q. All day long? A. A few of them are laying on the floor." (p. 10) Once conditioned to those benches and chairs, it will be

a rare individual who will bestir himself to make trouble for anyone.

What was going on here? How could the hospital staff justify the retention of these devitalized men as dangerous offenders from whom it was their duty to protect the public? Thornberry and Jacoby quote at length from the official records and correspondence, showing that neither clinical nor statistical predictions had any apparent influence on release policy or practice. It was clear that the predictions that mattered were political . . . "based, not on the characteristics of the individual, but on the assumed characteristics of a group to which the individual belongs . . . If the majority of the group is predicted to be violent, then all the members of the group, simply because of their membership in the group, are predicted to be violent." (p. 27). This principle is supported by a conservative logic which certainly protects the institution, if no one else: (1) Most mentally ill patients, if released, would be dangerous to others. (2) It is impossible to predict who would be dangerous. (3) If prediction is attempted, there will be false negatives, i.e., persons who would commit a serious offense if released on the assumption that they were not dangerous. (4) Therefore, decisionmakers will predict that all are dangerous and deny release to all. Without the guideposts set by the penal code, which at least establishes maximum and minimum sentences, the psychiatric decisionmaker must invoke his professional wisdom—and that is silent on the behavior of the criminally insane offender when released. There is very little in the accumulation of psychiatric knowledge that enables the practitioner of that art to predict the future behavior of anyone, especially the patient who has never been treated. Feedback is available to the psychiatrist to enable him to predict the course of treatment of a patient under planned therapy. It is clear that this was not the situation of any patients at Farview.

The final outcome of the experiment was to be found in the behavior of the Dixon patients in the community. It was an aging group of men; the median age at the time of the transfer from Farview was 46.36; only 21.3 percent were younger than 35. The research team found 180 of the patients for interview in the community—probably not a representative sample, but the group as a whole had no special reason to cooperate with investigators looking for them. Only 80—44.4 percent—had worked at all after their return to the community; 71.8 percent were unemployed when interviewed by a field worker. As for living arrangements, about three-quarters had relatives with whom they could live, and of that number most of them took advantage of the opportunity. What we can glean of the lives of the men interviewed looks bleak and comfortless, but the vast majority much preferred the community with its disappointments and unfamiliar responsibilities to the life they had survived at Farview. About three-quarters of those interviewed had received some kind of treatment in the community, and the majority reported that the treatment was pharmacological.

Of the 358 men who were released from the civil hospitals to which they had been transferred from Farview, 58, (15.7 percent) were rehospitalized for a total of 72 readmissions. This number is distributed rather generally: 24 percent were returned for violent behavior; 43 percent for psychopathological symptoms, and 33 percent for "unknown" reasons, which, on further examination turned out to be mostly "psychopathological symptoms." (p. 145)

But the final test of dangerousness had to be recidivism

—the commission of new offenses. The followup period was about 3 years for most of the Dixon patients in the community, and records were pursued for 414 of them. Of that number 316, or 76.3 percent, had no arrests after their return to the community. There were 43, or 10.4 percent who had only one arrest. The rest, 55, had from 2 to more than 10 arrests. The authors point out that the recidivism rate, 23.7 percent, compares with a rate of 20.4 percent for the Baxstrom cases followed by Steadman and Cocozza.

These arrests were for violent offenses in only 25 percent of the cases—57 arrests in all. Of this number, 18 seem to have been minor, but there were 3 homicides, 1 forcible rape, and 17 robberies. After their review of the data on recidivism, the authors concur with the conclusion of Steadman and Cocozza, which they quote:

"If we were to attempt to use this information for statistically predicting dangerousness, our best strategy would be to assume that none of the patients would be dangerous. In this case we would be wrong in 14 of the 98 cases. *Any other method would increase our error.* (Steadman and Cocozza, 1974, p. 151, emphasis in the original)" (p. 197).

IMPLICATIONS

This parade of the findings of an exhaustive and painstaking study does not do justice. Many ramifications of interest have been passed over; many methodological innovations have been reserved for the reader to discover for himself. I have reported the findings sufficiently to show that the prevailing system for the containment of the criminally insane is indefensible. To protect the public from a few heinous offenders, a large number of offenders are confined for very long periods of time in suspended ambiguity. The majority of the Farview men were incarcerated for periods much in excess of the time they would have served if they had been sentenced as common criminals rather than hospitalized as sick men.

It is customary to denounce this situation as the misapplication of the medical model to the criminal offender. But there is little in this situation that resembles the medical model as we know it when it is applied to noncriminals. No physician-patient relationship, no confidentiality of diagnosis and treatment, no consent to treatment measures, no plan for the amelioration of symptoms or the cure of disease. What is done by the physician in this situation is to magnify the power of the jailer with the special authority of the psychiatrist. The fact that this grotesque perversion of psychiatry has survived so long discredits everyone involved, and I must include myself as one who was too often silent when I should have spoken. It should not have taken an essentially statistical study to show that what the state has done to the mentally disturbed offender should not have been done. There were obvious alternatives.

Assuming that all these men had to be incarcerated somewhere, the choice should have been made between prison, on a sentence as provided in the criminal law of Pennsylvania, or a commitment to a civil hospital on the same terms as any other civil commitment. Obviously neither of these alternatives is a happy one, given the nature of the typical 20th century American prison and mental hospital. But Thornberry and Jacoby are very persuasive that Farview was worse than either of these alternatives.

There are two and only two reasons for committing an offender to a hospital for the mentally ill. The first reason is that treatment can be made available to him that will relieve his mental illness. The second reason

is that under the watchful care of the psychiatrist he may be sheltered from the abuse and misfortunes he would suffer in a less protected environment. Neither of these reasons was satisfied at Farview, and it is hard to believe that a hospital for the disturbed offender anywhere can be found which adequately meets these requirements.

Thornberry and Jacoby have reminded us with their statistics of Farview that correctional psychiatry is at Square One, or not much farther. The next research should be directed at finding out what these unfortunate men need from psychiatry and corrections and how that need can be satisfied.

Letters to the Editor

Comments on Rubin Article

TO THE EDITOR:

Sol Rubin's "New Sentencing Proposals and Laws in the 1970's" (June 1979) is a welcome addition to the literature surrounding the determinacy movement. I feel it is particularly useful in skewering some of the presuppositional facilities of determinacy advocates, particularly in their assumptions concerning those incarcerated.

I was disappointed to find that not as much attention was given by Mr. Rubin to the other great hinge of the determinacy thrust—the problem of disparity in our system. One might have hoped that some further illumination could have been cast upon "myths" about and the parameters of discretion and disparity, together with further nuancing of the concepts of "fairness" and "consistency."

I believe further that sharper focus needs to be brought to bear on the potential impact of increased prosecutorial (or, adversarial) power that could proceed from sharp limitations of judicial discretion. It seems to me that proponents of such limitation accompany their arguments with a glossy promise of greater public education and greater accountability by the Courts to the general public, yet desire to move the resolution of criminal determination to the more secretive area of plea negotiation.

Moreover, I see no compelling reason to believe that prosecutors/defenders will exercise less disparity in the exercise of their discretion than the judiciary currently does in exercising its.

Finally, *pace* the question of rehabilitation, I think it a legitimate area to investigate what impact a less individuated system of justice will have on those who pass before it, particularly in a time of wide-spread plea bargaining and increased technocratization.

In short, I feel Mr. Rubin's article represents a real gain in critical evaluation of the positivistic reductionisms of the proponents of determinacy; I would hope that you would present further criticism dwelling on the theories and potential impacts of those who would limit individuation in our Courts today.

November 6, 1979

ROBERT A. NUNZ
Probation Officer
New York City

TO THE EDITOR:

This "Letter to the Editor" is in response to an article appearing in the June 1979 issue of *FEDERAL PROBATION* by Sol Rubin—"New Sentencing Proposal and Laws in the 1970's."

The four short paragraphs pertaining to the need for parole reform as read by this old and tired parole/

probation officer is, to say the least, revolting.

I have always worked under the assumption that parole was an extension of prison—always worked under the assumption that if you violate a law and if by some strange chance are apprehended and more remotely still convicted, you should be *punished*. It does appear that society is reluctant to accept capital punishment, corporal punishment is no longer in vogue and incarceration at the present time does seem the most humane.

If parole supervision is determined to be unsuitable for our society let's keep the violator incarcerated for the period of term as imposed by the judge.

November 19, 1979

CHARLES E. PASCHAL
U.S. Probation Officer
San Diego, Calif.

Biles Fails to Refute Wilson

TO THE EDITOR:

David Biles' article, "Crime and the Use of Prisons" (*FEDERAL PROBATION*, June 1979) attempts to refute James Q. Wilson's assertion that "those States which are incarcerating a large proportion of the population in the United States have, all things being equal, a lower rate of crime." Biles attempts this refutation by demonstrating that in those states with comparatively high prison populations per capita, crime rates per capita are comparatively high. He goes on to show that similar patterns prevail in Canada and Australia.

Unfortunately, Biles' evidence is completely irrelevant to an assessment of Wilson's claim, because the claim predicts that high incarceration states will have lower crime rates, only when "all things" are "equal." In the real world, all things are not equal. Crime rates and prison populations can be influenced by many factors that will cause departures from the predicted pattern. Since these factors are not susceptible to manipulation by the researcher, they must be taken into account by means of statistical controls before Wilson's claim can be assessed. Biles has not done this.

Biles notes correctly the possibility that states with higher crime rates might incarcerate proportionately higher numbers of individuals. This possibility, too must be taken into account before Wilson's claim can be evaluated, for if imprisonment prevents crime and at the same time higher crime rates lead to greater use of imprisonment, one effect could swamp the other in the zero-order correlation, and in the graph. A considerable literature has been developed over the last decade concerning the use of special statistical techniques (simultaneous equation methods) for disentangling these different processes in studying the effect of sanctions on crime rates. Biles appears to be totally ignorant of this literature.

For these reasons, Biles is completely mistaken in asserting that: "Correlations are never sufficient to confirm causal theories, but they can refute them, and the present data are certainly sufficient to refute the theory that the greater use of imprisonment will reduce crime." Before a theory can be tested, the causal processes it asserts to be present must be correctly modeled. Biles has made no attempt to do this, and as a result his data cannot be used to draw any conclusions whatsoever about the effect of imprisonment on crime. Many scholars who have attempted to deal with these issues have obtained findings consistent with Wilson's claim. Although their work is not necessarily definitive, Biles' failure to refer to it at all is surely irresponsible, for it misrepresents the current state of our knowledge of this subject.

November 17, 1979

DAVID F. GREENBERG
Associate Professor
New York University
New York, N.Y.

Rejoinder

TO THE EDITOR:

I am grateful to David Greenberg for reading my brief article so carefully and for writing his thoughtful comment, but he surely overstates his case when he accuses me of being "totally ignorant," "completely mistaken" and "irresponsible." This is not the type of language that one expects in debate between scholars.

In essence, it would seem that I am being accused of not doing something that I had no intention of doing. It was not my intention to review the recent (largely econometric) literature on the relationship between penalties and the incidence of crime, nor was it my aim to engage in model-building or theory-construction. The cross-sectional data available to me would not have allowed such treatment.

The original statement made by James Q. Wilson received considerable media coverage in Australia and it prompted me to see if it was supported by the most recently available evidence from the United States, Canada and Australia. Nothing was found to support his claim that "those States which are incarcerating a large proportion of the population in the United States have, all things being equal, a lower rate of crime." In the article I reproduced the full data that showed this was not true. Even more convincingly, the six correlations of imprisonment rates with various measures of crime were all positive and remarkably similar. If David Greenberg has data which show other relationships I would be very interested to see them.

Admittedly, all things are never equal, and of course a sophisticated analysis would also consider such other variables as population structure, urbanisation, ethnicity, police strengths, etc., but it remains to be demonstrated that these variables are so powerful as to negate the results that I found. Also, data over a period of years would be desirable. At all events, the discussion was about the relationship between imprisonment rates and crime rates, not about other factors leading to crime.

If, as Greenberg suggests, two influences are operating at the same time, i.e., high use of imprisonment reduces crime and high crime rates lead to high use of imprisonment, then one certainly would expect a near zero correlation, but one would also expect a curvilinear or U-shaped distribution. This possibility was considered in the article, but the graphs showed no tendency of this type.

I am sorry that Greenberg believes that I have misrepresented the current state of knowledge, but it was no part of my aim to review the current and, in my view, generally unsatisfactory literature on this subject. Perhaps he may care to do this himself for a future issue of *FEDERAL PROBATION*.

December 14, 1979

DAVID BILES
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Schaefer Article Corrected

TO THE EDITOR:

I have been reading J. Schaefer's article "Criminal Sentencing: Misunderstandings and Applications," in the June issue. It is a very good, comprehensive article, however under question number 10 on page 24, Mr. Schaefer states that defendants serving sentences of 6 months or less—which encompasses all defendants serving split sentences—are not entitled to good time credit or parole. However the United States Probation Officer's Manual, paragraph 7209 points out that Federal prisoners serving sentences of 6 months or more are eligible to earn deductions for good conduct, therefore an individual serving 6 months under a split sentence could earn 5 days per month. This is consistent with 18 USC 4161.

I have relied heavily on *FEDERAL PROBATION QUARTERLY* for the 16 years I have been in probation. You have done an excellent job. Keep up the good work.

December 4, 1979

JERRY P. MORGAN
Chief Probation Officer
U.S. District Court
Savannah, Ga.

Reviews of Professional Periodicals

THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY

Reviewed by EUGENE H. CZAJKOSKI

"Soviet Criminology After the Revolution," by Louise Shelley (Fall 1979). In most of our American endeavors, we tend to look for contrasts with other nations, other cultures, and other economic systems. It is always an interesting exercise and it may reflect some mysterious, inherent need to bifurcate matters. One can drum up countless examples of a seemingly pervasive polarity in nearly all things—good/evil, light/dark, matter/anti-matter, ego/id, criminology/victimology, etc. For many generations comparisons between East and West or Occidental and Oriental served whatever need there is for pursuing dualism. In this century, Americans have found it handy to examine happenings in the Soviet Union as a way of satisfying a desire for chiasmal discovery. Thus, if there are new evolvments in manners, in dress, in education or, particularly, in problem-solving areas, we are especially curious to know how the Russians have done it. Here we have a review of Soviet criminology during a certain time period and it is probably safe to say that most American criminologists are interested in seeing the "other side" of the world's criminological enterprise.

The author of this article, relying on Russian publications, is able to draw some rather sweeping conclusions about the character and scope of Soviet criminology from 1917 to 1936. She is of the opinion that Russian criminologists, for a time immediately following the Revolution, were practicing their profession at a high level of scholarship and methodological sophistication. It would appear that they were not that much different from American criminologists of a generation ago. The dominant focus of Soviet criminological research was on the personality of the offender. As with the American criminology of the time, the search was for some pathology within or around the individual offender which could account for his being involved in crime. Biological anthropological, sociological, statistical and geographical methodologies were used by the Russians in a Lombrosian thrust not unlike what the Americans were doing. In some areas, notably victimology and female crime, the Russian criminologists seemed to be ahead of American criminologists.

Much of criminological explanation in the Soviet Union centered about the criminogenic effects of social change. Russia, following the Revolution, undoubtedly underwent tremendous upheaval for several years and Soviet criminologists were finding strong relationships between dramatic change and the incidence of crime. They also found urbanization as a factor in crime. Somewhat serendipitously, the study of Soviet criminology produces a unique insight into the sociopolitical history of Russia in the decade following the Revolution. The vitality of Soviet criminology in the 1920's was drastically dampened following the adoption of a politicized criminal code in 1926. After that, Soviet criminologists concentrated on political crimes to the exclusion of the more traditional crime forms. The Stalinist purges, the extermination

of the Kulaks in the drive for collectivization and the brutal repression of Soviet Moslems required from Soviet criminologists criminological justification. The criminologists responded with articles which, for example, catalogued the high rate of criminality among Kulaks who engaged in "terrorist acts of murder, arson, and assault against workers, members of collective farms, and teachers." By forcing a political, ideological discipline on Soviet criminologists, Russian criminological research was shaped into a propaganda tool of the government. As the author herself summarizes "this examination of the history of early Soviet criminology raises serious questions concerning contemporary Marxist claims that Socialism leads to a progressive legal system and improved criminology which better serves the interest of the masses."

"Plea Bargaining: Its Effect on Sentencing and Convictions in the District of Columbia," by William M. Rhodes (Fall 1979). Plea bargaining has certainly been among the liveliest of issues in the criminal justice process. In the last decade or so, much criticism has been leveled at the plea bargaining device on grounds of it either producing undue leniency for the offender or coercing guilty dispositions where they might not have otherwise occurred. The research findings reported here undermine the former criticism and give to the latter one a perspective which allows a broader range of understanding. No matter how the issue is approached, these findings purportedly show that plea bargaining generally brings more benefit to the prosecutor than it does to the defendant.

The analysis of relative benefit was essentially confined to a comparison between defendant and prosecutor. Benefit comparisons between the defendant and other parties such as the victim, the police, the judge, etc., were not made except perhaps by implication. Even in the defendant/prosecutor comparison, at least one exception was found to the uniform prosecutorial advantage and that is in the case of the robbery defendant. Moreover, while the researcher conceived of benefit to the prosecutor partially in terms of resource conservation, benefit to the defendant was limited to the terms of conviction and sentence. Neglected was the possibility of resource conservation on the part of the defendant wherein a plea of guilty, even in an instance where the resultant sentence might be greater than what emerges following a trial, still might carry the benefit of protecting the defendant's financial resources against the expense of a protracted trial procedure (lawyers fees, bail, courts, loss of employment income, etc.).

Working with data contained in the Prosecutor's Management Information System (PROMIS), the researcher conducted an analysis of arrests processed in the Superior Court of Washington, D.C., in 1974. To provide a statistically adequate number of cases, the high volume charges of assault, burglary, larceny and robbery were examined. The arresting officer's initial charge rather than the charge established by the prosecutor was utilized as the most accurate reflection of offense behavior.

Using numerous variables in a regression model, the researcher compared sentences received after trial with sentences received after guilty pleas and also assessed the probability that the defendants who entered guilty pleas would have been convicted if they had gone to

trial. It was found that, with the exception of robbery defendant, "defendants who entered guilty pleas received sentences comparable to the sentences they would have received had they been convicted at trial." Therefore, for at least the offenses of assault, larceny and burglary, plea bargaining does not significantly obtain the reward of leniency in sentence.

In regard to the probability of a guilty plea case also resulting in a conviction if a trial had been held, it was found that "guilty plea conviction may result in conviction of the legally innocent, i.e., persons who would not have been adjudged guilty at trial." The researcher goes on to conclude that "were it not for the significant number of guilty pleas, a large number of criminal cases probably would not result in conviction because trial outcomes are uncertain." Unless one takes into account possible benefits outside the realm of conviction and sentencing (which the researcher did not), it appears that in most instances it does not pay for the defendant to engage in plea bargaining.

This is a well done article extracted from a larger work published by the Institute for Law and Social Research. If one is not put off by the practice of making human organizations analogous to mechanical systems, in this case, plumbing, or by minor errors such as confusing probation and parole (on page 364), then one can find much that is interesting and worthwhile in the article. Elaborate statistical procedures are clearly explained and the detail with which empirical findings are expressed makes this published work eminently suitable for constructive comparisons with other research conducted along the same line.

CORRECTIONS MAGAZINE

Reviewed by OMAR G. RIOS

"The Demise of Prison Medical Research," by Stephen Gettinger and Kevin Krajick (December 1979). Ten years ago there were 42 prisons in the United States where medical research was permitted. In 1975 there were 11 prisons conducting medical research. At the end of 1979, however, only three prisons around the country were left conducting medical research. It is felt that within a year or two that the Federal Food and Drug Administration (FDA) will ban all remaining medical experimentation.

Those who oppose using inmates for medical testing argue that no inmate should jeopardize his health for drug company profits and argue that inmate choices to participate in experimentation are coercive. It is also pointed out that inmates are further tempted to volunteer for the medical research programs because they wish to escape from the prison's poor conditions and from poor wages. Other inmates participate because they wish to impress the parole board. Others participate because they wish to obtain the drugs used in the testing.

Supporters of prison drug research argue that testing is well controlled and monitored. If the same testing were done outside a prison setting the tests would be less reliable. They further argue that the quality and quantity of prison research will inevitably decline and that cures affecting millions of other people would be greatly slowed.

It has been determined, however, that medical drug research on humans can be done outside prisons. While

a few years ago 85 percent of all drug testing was done in prisons at present it's down to 15 percent. The authors indicate that it has been difficult to determine the extent of prison research because no agency monitors the research being done and because drug agencies are not eager to disclose their activities.

The article also assesses the risks involved to humans and explains when human testing begins and under what controlled conditions. After animal testing is completed the drug company applies to FDA for permission to test with humans. The human testing phase usually lasts between 5 and 9 years. Also mentioned in the article are examples of past medical research abuse in prisons. The indication is, however, that within a short period all prison medical research will be banned.

"Prescription: Methadone," by John Blackmore (December 1979). Methadone maintenance is now the most single common treatment for drug addiction. In 550 programs across the United States out of 235,000 in drug abuse treatment programs, approximately 126,000 are heroin addicts and 75,000 of these are on methadone maintenance. However, methadone's value as a treatment continues to be hotly contested among researchers and drug treatment workers. Fifteen years ago, methadone maintenance was introduced in experimental clinics and since then there has been controversy between those who believe "that to be free of drugs is an absolute prerequisite to treatment of the underlying problems that give rise to drug abuse" and between those who believe that through methadone maintenance narcotics abusers can lead productive lives. After many years of either this, or that philosophy, an intermediate position has evolved that believes "that methadone can be an aid in treating most intractable addicts, but that eventual drug freedom must be the goal."

This article gives an excellent historical review of the United States' "narcotics maintenance" treatment expectations. The author traces the rise of heroin back to 1898 when it was hailed as a cure of "morphinism." After morphine maintenance clinics were opened in 1914, a rise in heroin addiction was noted. Because of the program's failure to cure heroin addiction, the last clinic was closed in 1925.

It was not until 1964 that efforts at narcotics maintenance were renewed when the first methadone clinic was opened. Close monitoring of its use followed. After early tests were disseminated, the Nixon administration in 1971 settled on methadone as a solution to combat the urban crime problem. By 1973, following the hasty upgrading of methadone to "approved new drug" public opinion began to turn against methadone.

Studies had begun to show that methadone patients do not give up other drugs, that patients are often sedated and lethargic, that side effects are chronic constipation, profuse sweating and reduced sexual drive, and that early studies systematically exaggerated the positive social effects of methadone.

Other studies show that methadone has been the most effective treatment for addiction, and also the most cost-efficient. The article concludes by mentioning some of the new directions which present research is taking. Scientists continue to search for new chemical solutions to the heroin problem, while others attempt to identify the neurological basis for addiction. This is an excellent article on methadone, which was once hailed as a cure, but is now attacked as part of the disease.

"Legal Barriers to Jobs Are Slowly Disappearing," by Andrew D. Gilman (December 1979). In the last 10 years, more and more occupations, professions and legal

rights have been opening for the ex-offender as some restrictions have been repealed by statute, and others have been struck down by court decisions. Other areas of employment have also opened up as licensing boards have eased up on prohibitions which barred someone with a prior conviction. Even though reform has been taking place to abolish restrictions on the employment of ex-offenders, the pace of reform has been slow.

"The laws and regulations that limit the rights of ex-offenders are collectively known as 'civil disabilities.'" In 1972 the American Bar Association's Clearinghouse on Offender Employment Restrictions found that there were 2,000 laws throughout the United States that affected employment opportunities for persons with criminal records.

Although laws have been amended to make the offender more employable, preparation for their employment remains a problem. The article points out that most ex-offenders do not have training or education to get basic jobs.

The primary purpose of civil disability statutes was to extend punishment beyond their prison terms, to segregate them from civilized society and sometimes even to banish or exile them. "Civil death statutes generally abrogate all citizenship rights during an inmate's period of incarceration and provide for only partial restoration of these rights when he is released." Most ex-offenders need help to find decent jobs and help with the obstacles created to prevent their securing employment in certain areas.

THE INTERNATIONAL JOURNAL OF THE ADDICTIONS

Reviewed by DAVID M. PETERSEN

"Methadone Programs and Crime Reduction: A Comparison of New York and California Addicts," by Dale K. Sechrest (April 1979). Methadone patient progress in the Addiction Research and Treatment Corporation located in Brooklyn, New York, was evaluated and compared with patients admitted to the Santa Clara County, California, Methadone Treatment and Rehabilitation Program to determine the extent of reductions in individual and communitywide criminal activity. The study results revealed an overall decline in official or recorded arrests for the Brooklyn patients (N=473) in a 3-year followup period after July 1970. The California patients (N=271) evidenced similar declines in a 2-year followup period. However, assault rates for both patient groups showed less of a decline. It was found that the Brooklyn patients were arrested less frequently but for more severe offenses for preaddiction, addiction, and postprogram entry time periods. Complaints to the police regarding criminal activity in the catchment area for the Brooklyn program were not reduced when compared to surrounding precincts. Patient characteristics and program performance were examined for the Brooklyn patients in relation to reductions in criminal activity. Decreased criminal activity was significantly related to less preprogram drug use and decreased drug use while on the program and older patients had slightly better outcomes. It was concluded that for future drug treatment programs three major program requirements should be met. First, programs should utilize more aggressive outreach techniques, such as the epidemiologic outreach model. Second, that the administration of the program be "sound" and that the

program be committed to a continuous long-term effort (at least longer than 2 years). And third, that the range of services provided be both administratively integrated and broadened in combined methadone maintenance and drug-free approaches.

"Drug Abuse, Hopelessness, and Suicidal Behavior," by Arlene N. Weissman, Aaron T. Beck, and Maria Kovacs (May 1979). The focus of this study was on the assessment of variables which may differentiate suicidal drug abusers from nonabusers. Data were collected from 384 suicide attempters admitted to two large metropolitan hospitals. Of the total sample, 86 subjects were identified as being dependant on drugs. Stepwise multiple regression statistical analysis was utilized in an attempt to identify factors related to suicidal intent (as measured by a Suicidal Intent Scale that evaluated the seriousness of the patients' psychological intent to kill himself). The analysis revealed that for this sample of suicide attempters, drug abuse status was *not* a significant contributor to the severity of suicidal intent. Additionally, psychometric instruments were administered to these subjects to measure the intensity of depression (the Beck Depression Inventory which covers cognitive, affective and other symptoms of depression) and hopelessness (the Hopelessness Scale which assesses the extent of negative or hopeless outlook). It was found that hopelessness accounted for a significant proportion of the variance of intent. The Hopelessness Scale was a consistently better predictor of the measure of suicidal intent than the Beck Depression Inventory. The data, then, reveal that for both drug abusers and nonabusers who attempted suicide, hopelessness represents a more important determinant of suicidal behavior and presents an important target for therapeutic intervention. The authors provide commentary regarding a number of areas which need additional verification, as well as speculate on the implications of this study for professionals and paraprofessionals working with drug abusers.

"Side Effects in Methadone Patients: A Survey of Self-Reported Complaints," by Bill Longwell, Richard J. Kestler, and Thomas J. Cox (May 1979). Reports in the literature have described various side effects apparently related to methadone use and at least one study of treatment failures revealed that more than one-fourth of the patients identified side effects as the primary reason for discontinuing treatment. The authors view methadone side effects as a significant problem worthy of further study. In an attempt to delineate whether methadone is related to any new or severe side effects not present before methadone maintenance, 51 patients in a methadone program were requested to complete a questionnaire containing 38 possible complaints upon admission and after 3 and 9 months in treatment. The symptoms, to cite a few, ranged from sweating, diarrhea, dizziness, to having weird or unusual dreams. Response categories provided for five possible responses from "no problem" to "a very bad problem." Only three complaints at 3 months (weird dreams, increase in weight, and increase in use of alcohol) showed an increase in the percentage of clients reporting them as a problem compared to the period prior to their admission to methadone maintenance treatment. Five complaints (weight gain, increased alcohol usage, decreased interest in sex, numb hands and feet, and abdominal pains) showed an increase after 9 months of treatment compared to before methadone maintenance. When the data were analyzed by a summed mean only one complaint at 3 months (increase in weight) and two at 9 months (weight gain and numbness of the

hands) showed an increase in severity compared to before entry into the program. However, when each patient's response to the five-choice scale was coded as "no change," "improved," or "worse" comparing the time period before methadone maintenance with after 9 months of treatment, 11 complaints showed a significant number of patients reporting them as having become more severe. These included: blurring of vision, sweating, drowsiness in daytime, increase in weight, decreased interest in sex, chest pains, headaches, constipation, increased use of alcohol, painful joints or bones, and having weird or unusual dreams. The study is limited by the fact that many of the complaints are subjective but the authors document that their findings seem to be reliable. They suggest that: (1) patients should be informed during their initial orientation of the possible side effects of methadone and given the assurance that, in most instances, the number and severity of complaints will diminish; (2) subjective complaints should be reviewed within the context of the client's overall treatment record and should not be ignored or assumed to be psychosomatic; and (3) the study documents the need for further research regarding the long-term effects of methadone maintenance.

"Bias in Drug Abuse Survey Research," by Mark Hochhauser (July 1979). The author reviews the drug abuse literature and reports that significant biases may affect the existing data. He notes that there has been a tendency among drug abuse researchers to rely almost exclusively upon student drug surveys and that despite literally hundreds of these surveys during the past decade, little if any attempt has been made toward the development of any standardized survey format. The lack of standardization in survey research leads to problems of reliability, validity, and objectivity in drug abuse measurement. The author suggests some procedures that must be observed in order to reduce the potential of possible error in future research. In addition, he discusses new techniques available for application to a variety of different survey formats that make possible statistical comparison of different data that has not heretofore been possible. The major topics regarding bias covered in the paper are demand characteristics, experimenter variables, and sampling bias. Demand characteristics of the survey situation may cause the subject to bias his responses in a particular direction, depending upon his interaction with and his interpretation of the survey conditions. Demand characteristics include the subject's expectations, attitudes, and beliefs; the subject's tendency to respond positively (e.g., bogus drug use); and psychological differences between volunteer and nonvolunteer subjects. Experimenter variables include the experimenter's personality, experience, attitude, and sex; the number of experimenters in the survey; and the ability of the experimenter to unconsciously cue the subject to provide the desired response. In short, both overt and covert biases of the researcher may significantly affect the outcome of the survey. Finally, limitations of the survey method itself seriously restrict our understanding of drug abuse phenomena. These sampling biases include the source of the survey data (reliance on student populations); difficulties in obtaining random samples; conclusions overemphasizing student drug users (rather than nonusers); and limitations of the sample survey as a measurement device.

"University Infirmary Admissions for Drug Abuse, 1968-1970 and 1973-1975," by John M. Dorman (July 1979). The present research considered college students who were admitted overnight to the Stanford University infirmary

because of drug-related problems for the 2-year periods 1968-1970 and 1973-1975. During 1968-1970 there were 42 admissions by 32 students, including 23 men and 9 women. Thirty-two of these admissions were categorized as adverse reactions to drugs used mainly for recreational purposes. There was a predominance of hallucinogens (e.g., LSD) accounting for 14 admissions or 33 percent of the total. The number of admissions resulting from alcohol was the same as the hallucinogens but half of these admissions were by one student. Marijuana contributed to 7 or 17 percent of the admissions (figures do not always equal the total sample because of the use of multiple substances by some students leading to infirmary admission). Probable suicide attempts (overdoses) accounted for 10 of the total number of admissions, with aspirin and barbiturates the most frequently used substances. Five years later there were 26 admissions by 25 different students, 18 men and 7 women. Alcohol now contributed to 13 or 50 percent of the admissions, while marijuana was again a contributor in 7 or 27 percent of the admissions and only 2 or 8 percent were from the use of hallucinogens. There were 7 admissions for overdoses, with aspirin and diazepam most used for this purpose. Although official university records are not representative of patterns of drug use on the campus at large, the results here indicate many less students coming to medical attention now than 5 years ago for problems with the hallucinogens. At the same time, however, more students have required admission for alcohol-related difficulties, while marijuana problems have remained fairly constant, in spite of generally accepted increased use. Aspirin continues to lead as a drug used for suicidal gestures undoubtedly because of its continued availability. The author discusses the implications of his research and the problem of drug abuse on the college campus in general.

"Parental and Peer Influences as Correlates of Problem Drinking Among High School Students," by Reginald G. Smart and Gaye Gray (October 1979). This study reports on the relative importance of parental, peer, and demographic variables in predicting problem drinking among young people. The general aim was to determine whether the main correlates of problem drinking seemed to lie within the drinker, with his parents or friends as models. The survey was conducted in two schools in central Ontario during 1975 and employs a large sample of 1,439 students. The dependent variable, problem drinking, was measured by a problem drinking symptoms scale. The predictor variables were: three demographic variables (age, sex, and grade average); seven family background variables (father's occupation, father's and mother's drinking, father and mother rejection, and control scale); six drinking variables (drinking in cars, drinking milieu, knowledge scale of alcohol, type of alcoholic beverage, parents' knowledge of drinking, and friends' drinking); and one other variable (lie scale score). Analysis revealed that 11 characteristics, taken one at a time, are associated with high scores on the problem drinking scale. As many predictors tend to be interrelated, bivariate analyses are unlikely to identify the most important correlates of problem drinking. The authors employ a multiple regression technique, Multiple Classification Analysis, to identify variables with a significant and unique predictive power. It was found that problem drinking is best predicted with situational factors and those directly connected with drinking. More than half (five) of the nine primary correlates lie within the student and his own behavior, specifically: his sex, where he had his first drink, i.e., home or other; where he usually does

his drinking, i.e., home or other—in cars, bars, taverns, etc.; his knowledge of alcohol; and the number of different types of alcoholic beverages he consumes, i.e., beer only, beer and wine, etc. Parental and peer variables had little unique predictive power. The eight predictors *least* important to the prediction are mainly parental correlates: age, lie score, grade average, father's occupation, mother and father control, father rejection, and mother's drinking. Problem drinkers were more often male, had their first drinks away from home, and usually drank in cars. The results suggest that prevention programs could center on males, those who drink away from home and parental controls, and those who are alienated and socially isolated.

PROBATION JOURNAL

(England)

Reviewed by HAROLD W. KELTON

"Working With Young People: The Way Forward," by David Ward (March 1979). Criminal Justice-Correctional "Programs" are termed "models"; and our model, here in the Western world, couched as it is "... in the vocabulary of sickness and treatment..." has rendered results that have for a long time been "uniformly disappointing." We got to this point because of the early, original decision, to entrust the model design to social workers. Crime was seen as an individual thing, a sort of "normal psychopathology" in persons that could be successfully attacked by the interventional style and content of social work. Support for this "model" is rapidly eroding, and Ward is one more person suggesting that such elements as personality development and therapist elitism, as are key to the social work approach, are not touching the real problem of environmental issues. It is dealing with issues that is now seen as the possible form for successful intervention. This means embodiment of concepts such as *conscientisation* where "Through dialogue, the teacher-of-the-students and the students-of-the-teacher cease to exist; and a new term emerges: Teacher-Student and Student-Teachers." Translated to the correctional field, this would probably mean the creation of task-oriented projects in which probation officers and probationers shared in the design, implementation, and management. Hopefully, this would deal with issues and interest clients in improving the quality of their lives. Ward's article provides an extensive list of references and readings in support of his views.

"Probation Officer Skills in Community Service," by Roger Williams (March 1979). Use of the Community Service Order is challenging the need for probation officers. After all, if offenders are to be organized into work teams to complete worthwhile tasks, is the need not more for tradesmen and industrial managers—ancillaries as they are called? Williams gives some reasons why the probation officer should not be replaced as administrator of "Community Service Order Schemes." Offenders must be "matched" with projects appropriate to their rehabilitative needs, knowledge of societal risk is required and expertise as program monitoring, and skilled decisionmaking in regards to order violation is very important. Finally, the Community Service Orders "... confront the community with its offenders and encourage local groups to take responsibility for them," and it is the professional probation officer who should be the catalyst in this confrontation.

"Sentenced to Surveillance?," by Adrian James (March 1979). The British probation tradition emphasizes social work skills to meet offender needs. There was never any question, with the probation officer, that needs of the Court, the Society, or the Agency were not his overriding concern. Recent Governmental policy encouraging the converse, coinciding with a universal "... collapse of the rehabilitative ideal..." constitutes a real threat to the "Traditional" probation program. This is another exposition of a characteristically British position that the constituent population, institutions, and agencies that created and maintained their probation service are not to consider themselves as clients of it. British probation officers see themselves first as social workers with a "... hard-won professional independence..." that stirs their resentment against judges who want to set terms and conditions of probation and "political and social service leaders who suggest that reconviction rates as a measure of effectiveness is a valid proposition." This article is a response to that of Malcolm Bryant in the December 1978 issue ("Sentenced to Social Work?") which is seen by James as something of a panic reaction to public demands for some kind of results and accountability. Social workers want to be accountable to themselves and not to "outsiders" who do not comprehend their visionary, transcendent code. It is, of course, the outsiders who pay the bill; and this, very simply, is the problem. Extensive references are provided.

"Vandalism," by John Hedge (March 1979). Vandalism is a worldwide problem, nor are Iron Curtain Countries exempt from it. As might be suspected, any careful examination of vandalism reveals a complicated and fragmentary picture. The Hedge article is a review of major studies of the problem, all of which have apparently been published by the British Home Office. Conclusions can be drawn from the studies that "... the vast majority of vandalism is petty, affects public property, and is committed by children who are poorly supervised and unfulfilled at school." Dwellings are somewhat rarely affected, and "child density" is an important variable for an area. The proper response to epidemic vandalism, says Hedge, is the "long, hard look" and the avoidance of politically motivated "moral panic."

This is excellent source material for anyone interested in taking the long, hard look.

"Through-Care: The Client's Point of View," by Rosaline Kingston (June 1979). The British technique of "Through-Care" means a program of continuous probation officer contact with offenders from sentence through imprisonment, to release, and aftercare. The contacts occur in court after sentence, in prison, during sentence, and in the community prior to and after release from imprisonment. Kingston's observation, following research interviews with 22 offenders, is that the full potential of this program for accomplishing objectives is not being realized. Probation officers, in general, are just not making enough contacts or exhibiting the proper enthusiasm to have impact on offenders. When probation officers casually break appointments or fail to take the time to write a personal letter, they are surely undermining their own efforts. Pertinent family work, innovative help with pre-release plans, and small expressions of care (having the local paper forwarded to prison) can do much to make "Through-Care" a significant program.

"Probation and Punishment," by Barry Matthews (June 1979). The Criminal Justice System calls for the detection of wrong-doing, punishment of offenders, protection of public rights, and fortification of the rule of law. Early

in this century a welfare system, viewing criminal behavior as "... a symptom of emotional and/or social disturbance ..." was introduced in an effort to "... fuse concepts of law and social work." The fusion did not take place (in Britain, anyway) but, in fact, a polarization occurred with proponents clustering into two competing camps—treatment versus punishment. The treatment people have so predominated that a "backlash" is now developing that threatens treatment considerations with near extinction. There is a need, says Matthews, for fusion to occur and for a balance to be sought. In discussing the concepts of punishment, deterrence, retribution, reformation, and the causes of crime, he concludes that neither "model," that of Justice or of Welfare, can, in reality, exist without the other. In providing the essential qualities of mercy and compassion to justice, the courts rely on the resources of each model. The court must always impose punishment, and that is the concern of "Justice," but "Justice" must always be tempered, and that is the concern of "Welfare." In any given case, one concern must be seen to receive emphasis over the other, but both are always present. Matthews says he does not want to be part of a service wholly aligned to one concern or the other.

This small article has rather significant proportions and is well worth the reading. References are listed.

"The Abolition of the Probation Service?," by Cliff Davison (June 1979). Over the years, the Probation Service has been asked to handle a succession of ever-widening responsibilities: Probation and parole supervision, presentence investigation, prison welfare, prison aftercare, marital problems, children's problems, community service, volunteer services, the operation of attendance centers, and others. Each new area of duties has brought a concomitant protest from a significant number of probation officers that their mission was being diffused and that the service was being prevented from concentrating "... its resources on its real social work task ..." Davison's purpose is to warn these incessant protesters. In a whimsical projection, he takes the reader through a series of stages to the year 1988 where the Probation Service, having been gradually divested of its wide responsibilities, is finally disbanded by "Act of Parliament," and the reigning monarch, when asked to comment, says "to be quite honest ... I was never too aware that a Probation Service existed in the first place ..."

"Public Relations for Probation," by Bill Weston (June 1979). If it is felt that the Probation Service has a need or function of saying something about itself to the public, there are some prerequisite matters to settle. First, it must be determined exactly what it is that the service is supposed to be doing. In a word, the task becomes involved with *accountability*. Second, how ethically, as well as effectively, is this "saying" to be accomplished? Weston's suggestion is that rather standard public relations (PR) techniques hold the key. These techniques include the organized collection and storage of information, establishment of a press clipping service, a program of pervasive dissemination of information, the building of pragmatic relationships with news media personnel, and the delegation of PR responsibility to individual voices. Weston does not neglect the point that PR can have its "risks"—these obviously being that despite the best plans and intentions, undesired results can accrue from PR efforts. Surely, there is an uneasy element to any courtship of news media personnel. References are provided.

"Should 'Probation' Be Involved in Marital Work?," by Jack Chapman (June 1979). Britain recognizes the need to do something about marital problems, and this "review article" reports on the status of Governmental efforts to address the problem. A rising divorce rate makes action an urgent necessity, but responsibility has been divided among several departments; and consultation is "disappointingly leisurely." For probation officers, the issue is whether or not they will enthusiastically embrace new casework responsibilities ascribed to them under the 1978 Domestic Proceedings Act. Another apparent concern to the British probation officer is a proposal that would subject them to some direction, in their marital casework, at the hands of a new "Minister of Marriage."

THE BRITISH JOURNAL OF CRIMINOLOGY

Reviewed by HARRY W. SCHLOETTER

The entire October 1979 issue is a special number devoted to behavior modification. Nine articles relating to this important subject are included and a brief synopsis of each article follows. The history of behavior modification and its use and methods in the treatment of offenders is brief and as some of the authors have pointed out, controversial. Most of the papers described were presented at a workshop at the Cambridge Criminology Conference in the Summer of 1977.

"Delinquency, Recidivism and Desistance," by Gordon Trasler, professor of psychology, University of Southampton. This paper by Professor Trasler attempts to consider how the techniques of behavior modification may appropriately be used in an effort to diminish the likelihood of recidivism.

The second article is entitled "Behavior Therapy and Modification," by John D. Teasdale, Ph.D., senior research psychologist, Department of Psychiatry, Warnefore Hospital, Oxford. Dr. Teasdale's paper discusses the general nature of behavior therapy and behavior modification with specific applications of behavior therapy to the problems of offenders. Sexual deviation, alcoholism, crime, as well as the problems in the applications of behavioral treatment to offenders is discussed.

"Behavior Modification in American Penal Institutions," by R.E. Remington, Ph.D., Department of Psychology, University of Southampton, is the third article in this series. This article describes in great detail the utilization of behavior modification found operating in various American penal institutions. It also points out the methodology, implications and rehabilitation factors associated with this experimental treatment modality.

Dr. David P. Farrington, Ph.D., Lecturer, Institute of Criminology, University of Cambridge, wrote on "Delinquent Behavior Modification in the Natural Environment." His article begins by definitions of behavior modification and delinquent behavior and the natural environment. A summary of behavior modification techniques is offered as well as information on behavior modification with families, schools and the community. He closes the article with a discussion on methodological and ethical problems found and points out that "delinquent behavior modification attempts should be carried out with delinquent behavior in the natural environment."

The next article is "Token Economy Strategies in

Criminal Institutions," by John Hall, Ph.D., principal clinical psychologist, Whitchurch Hospital, Cardiff. Dr. Hall describes the advantages and disadvantages of a token economy and relates the major characteristics of token economy programs. The physical form of the token is unimportant, with the essential requirement being that tokens are linked to a range of "back-up" reinforcers. In this way, the tokens acquire symbolic value similar to that of real currency. The author points out that there are many considerations to be examined, but that a token economy could be well utilized in any long-stay institution.

"The Aycliffe Token Economy," by Masud Houghugi, Ph.D., principal, Aycliffe School, Darlington, is next. The author points out that this paper describes a critique of some aspects of a token economy scheme which has been in operation at the Aycliffe School for some time. Here again, the paper presents both advantages and disadvantages and, where appropriate, which solutions have been found to be particularly applicable. Aycliffe was opened in 1942 as a classifying school and soon was changed to an approved training school for delinquent teenagers of 13 and 15 years of age. The school is now a regional center for the assessment and treatment of severely disturbed youngsters in North East England. Dr. Houghugi points out the resources needed and describes the operation of the token economy system.

The next article by Dr. Gloria Laycock is entitled **"Behavior Modification in Prisons."** This paper is concerned with the deliberate behavioral interventions of psychologists. The work of prison officers, administrative staff and probation officers, etc., is excluded. The author points out that behavior modification is going on all of the time in their penal institutions and the term "behavior modification" as used in the context of this article implies involvement of learning theory. Individual treatment and group treatment are discussed separately and a lengthy part of the article is devoted to the program design.

A short article on the nature of the patient/therapist relationship by John Bancroft, who is associated with the Reproductive Biology Unit at Edinburgh, is devoted to a discussion of the two broad aims of behavior modification: "Helping the Individual Learn New and More Adaptive Behavior" and "Controlling the Individual in Order to Reduce or Eliminate Undesirable Behavior." The author points out quite clearly the therapist's role in facilitating the behavior modification process and in this short article, one is presented with a number of helpful ways of understanding this subject.

Professor D.E. Blackman, University College, Cardiff, discusses **"Ethical Standards for Behavior Modification."** This paper briefly reviews the nature of behavior modification, a term which the author feels has come to be used rather casually in recent years. Professor Blackman points out that behavior modification arises from contemporary behaviorism in psychology and the general relevance of behavior sought for criminology is evaluated. Some methods for the possible curbing of the potential abuse is illustrated and the paper concludes with a discussion of controlling the behavior modifiers in the context of interactions between psychologists and their patients.

Each of the articles in the special issue has extensive bibliographies and is very readable. The arrangement of articles is helpful to the individual interested in this form of correctional treatment.

CANADIAN JOURNAL OF CRIMINOLOGY

Reviewed by VERNON FOX

"Problems in the Use of Official Statistics for Criminal Justice System Research," by Ingrid Connidis (October 1979). Problems involved in employing official statistics for criminological research have been pointed out previously by several authors, but little has been done to the overall system. Case flow of cases through the system was plotted from (1) the number reported to police to (2) offenses cleared by police to (3) offenses brought to court to (4) offenses brought to court resulting in conviction to (5) convictions resulting in sentencing. Using data published by Statistics Canada, general observation of a 10-year period on both sides of 1969 raised questions of attrition. Focusing on 1972, data on assaults, murder, and manslaughter in Ontario revealed attrition to various degrees. The conclusion was that official statistics fail to meet the optimistic expectations of most researchers, that they cannot determine the case flow accurately, and that decisionmaking and other system variables are unreliable when based on official statistics. Researchers must rely only on data specific to the purpose at hand. To conduct systems analysis of the administration of criminal justice, data must be collected that permits realistic determination of case flow, reasons for case loss, and comparability of police and court statistics to insure the commonality of cases over time.

"Norms and Recidivism for First Incarcerates: Implications for Programming," by Paul Gendreau, Patrick Madden, and Mary Leipziger (October 1979). Social history information, institutional record, and recidivism rates of 802 inmates who arrived at the Guelph Correctional Centre in 1971 through 1972 were studied to determine what factors might be associated with recidivism. While most of the sample were first offenders, 19 were second offenders. The factors most closely associated with recidivism were getting into trouble at a younger age, prior criminality, poor work history, poor institutional behavior, and the age at which use of alcohol and/or drugs began. Family instability and problems within the family were frequent, but very few received help from existing social agencies. Recommendations were made to provide more social services in the community to help families in trouble before conflict with the law occurred, increased vocational training in the institution, and more realistic use of psychiatric history data and systems information development.

"Meurtres spécifiques et non spécifiques," by Michel Huard (October 1979). Three groups of 10 patients who had murdered were given the Rorschach Test to determine the extent to which various homicide patterns tend to be stereotyped in terms of pathology and in the context of personal history. The first group had killed their parents. The second group had killed their wives. The third group had killed strangers. Paranoid patterns were found in most cases. The patients who killed parents included seven who showed paranoid schizophrenic patterns and three paranoid episodes. Those who killed their wives included six paranoid schizophrenics, two with simple paranoid patterns, and one each with a paranoid episode and a psychotic depression. The group who killed strangers included nine paranoid schizophrenics and one

simple schizophrenia. The greatest variations were in the patients who killed parents and their wives. The wife-killers had greater pathological defenses and acting-out aggression, while the parent-killers were lower in these traits. Immature control of impulsive behavior appeared frequently in all groups. Knowledge of these dynamics in the treatment process will assist in preventing repeated homicides.

"Toward a Cultural Understanding of the Native Offender," by J.T.L. James (October 1979). The native Canadian has been over-represented in the criminal justice statistics. Many natives have suffered at the hands of non-natives trying to apply the processes of the majority culture to persons who do not comprehend. Natives helping natives would be a good answer, but there will never be enough natives in the criminal justice system to do it. Lack of verbal skills in a "second language" for the natives, conflicting concepts of pride, difficulty for food-gatherers to accept permanent residence, lack of sense of time by natives in a time-oriented world, and non-interference in resolving conflicts in a nomadic world are a few of the cultural problems that arise when nomadic primitive man interfaces with white man's society. Criminality may be defined as a set of antisocial values leading to antisocial acts, which would lead to the conclusion that natives should have less theoretical potential for crime. The competitiveness, haste, interference, and greed characteristic of our culture leads to the criminality of those who are induced to aspire to our materialistic values. The basic values of both cultures are essentially similar, so the gulf should be closed quickly by acquiring a better understanding of native's culture.

THE JOURNAL OF DRUG ISSUES

Reviewed by GEORGE I. DIFFENBAUCHER

"Partial Prohibition of Non-Medical Drug Use: A Proposal," by Michael P. Rosenthal (Fall 1979). Generally, both nonmedical distribution and use of mind-altering drugs are prohibited under Federal and state criminal law. With only a very few exceptions (relating to marijuana), possession of even small quantities carries the possibility of imprisonment (sometimes for substantial terms).

While total prohibition has been the dominant response to control of mind altering drugs in the United States in this century, total prohibition is not the only model of prohibition applicable to transactions in such drugs or in other goods and services which are deemed harmful. Distribution of or trafficking in these products or services can be prohibited while possession or use of the product or service is not; the distributor is punished, the mere user is not.

In the Drug Abuse Control Amendments of 1965, Congress punished sales and other distributions of these drugs without a prescription. It also provided that possession without a prescription should be an offense if it was other than for the personal use of the possessor or of a member of his household. Possession for personal use apparently was exempted from sanction at least in part because, given the widespread use of amphetamines and other stimulants and barbiturates and sedatives, and the extent of self-medication with these drugs, its inclusion made criminals of the large number of people

who engaged in this undesirable but rather "normal" conduct.

The Federal Controlled Substances Act, enacted in 1970, replaced both the Federal narcotics and marijuana laws and the Drug Abuse Control Amendments. In providing that a first offense simple possession of any drug, including heroin, is a misdemeanor, the new law markedly departed from the pattern of heavy felony penalties for simple possession. The change with respect to marijuana has been the most dramatic. Though in 1973 the National Commission on Marijuana and Drug Abuse recommended that total prohibition of controlled substances be retained other than marijuana, it had a year earlier recommended a policy of partial, rather than total, prohibition for marijuana. Concluding that the discouragement of use was the appropriate goal of marijuana policy, the Commission recommended that partial prohibition was the best way of controlling the drug. Partial prohibition assumes that prohibition does have an impact on use (despite the illegal use that does go on during prohibition). It also assumes that most of that impact comes from restrictions on availability and enforcement against commercial distribution or trafficking rather than through deterrence of the user and enforcement against simple possession.

The problem is one of balancing, and espousal of a partial prohibition approach involves recognition that there are *degrees* of risk, degrees of danger that some drugs may be dangerous enough to restrict by prohibition of distribution—or at least of commercial distribution—while not so dangerous as to make it worthwhile to bear the costs involved in making the user a criminal for his use or even for small distributions. It would be an unusual drug for which the author would consider total prohibition appropriate. This is so, because it is likely that even if use of a particular drug involved a significant risk of immediate and serious harm, word of this would rather quickly become known, and demand for the drug would fall off, making it unnecessary to criminalize the user for his use.

There are a number of serious costs of criminalizing the user for his use. One of the most serious is that when we do so we directly and coercively intrude into the user's personal life (and very often into the physical privacy of his home) to reach conduct which usually is not in itself harmful (use carries with it only a *risk* of harm) and which usually directly affects only the user.

Because most drug-taking occurs in private and because users-buyers don't complain, enforcement may involve direct invasions of privacy, such as search and seizures and the use of informers. Some-to-many of these search and seizures are unconstitutional. In fact, our American law of what is a constitutional and what is an unconstitutional search and seizure really began with alcohol prohibition. As far as the use of mind-altering drugs is concerned many of us are, as in other areas, distrustful of government and the medical establishment. Marijuana turned out not to be "the noxious weed" that the Bureau of Narcotics and some members of the medical establishment told us it was. Also, in the last decade we have found out that the risks of harm presented by a number of mind-altering drugs (marijuana, LSD, cocaine) are just that *risk*. They are not inevitable effects. We have stigmatized as criminals a large number of our people, mostly young people, and in the main (with the exception of heroin users) we have been criminalizing people who do not have criminal or delinquent records, or at most have only very minor records.

The National Commission on Marijuana and Drug Abuse and the Canadian Commission of Inquiry into the Non-Medical Use of Drugs concluded that criminalization of the user for his use is not a very effective deterrent to nonmedical use of drugs. The reasons are simple, and we have seen them before. A lot of people wish to use drugs, many of them very badly, and drug-taking (at least if it is in private) is difficult to detect. Reflecting the development of the view that nonmedical drug users are not criminals who should be punished, but are sick people who should be treated, retention of the simple possession offense has been supported as desirable or necessary in order to identify users who should be treated, to bring them into treatment, and to make sure that they stay in treatment. A serious claim for non-emergency compulsory treatment can be made only for drug-dependent users. Most nondependent users of mind—and mood-altering drugs are “neither abnormal nor in need of treatment in any meaningful sense of those terms.” They have chosen to disobey the law, they have engaged in conduct labeled deviant by the elected representatives of the people, they march to a different drummer, but they are not sick.

Considerations relating to *autonomy* may be somewhat less meaningful with respect to use of heroin than with respect to use of other drugs, but because heroin has pharmacological properties which give it a significant potential for producing dependence, they are by no means negligible. Recent studies show high rates of heroin use without dependence, there are (perhaps a significant number of) controlled users of heroin, and it is likely that most people who use heroin do not become addicted to it. The situation may be somewhat different with respect to the dependent user. In most cases his autonomy with respect to refraining from use of the drug upon which he is dependent is probably to some degree impaired. However, even if the dependent user is completely unable to refrain from use, it is by no means clear that he cannot make a rational decision as to his need for treatment. If the dependent user is to be coerced to enter and remain in treatment, we should be able to offer him treatment with a high degree of proven success.

There are several reasons for prohibiting nonmedical distribution and use of heroin and other strong opiates. They are risks to physical health, impairment to productivity, heroin related crime, and reasons relating to addiction itself. It is really not clear how dangerous heroin is to the physical health of the user. Some risks to the physical health of the user are attributable to the combination of our system of prohibition and the habits and lifestyles of users rather than to the drug itself. It is possible to be productive while addicted to heroin, morphine, or other strong opiates when the drug is lawfully available. English studies indicate both that addicts can work and are employed while maintained on heroin, and that maintained addicts exhibit diverse behavior patterns with respect to their employment (as they do with respect to other behaviors). Most American addicts have delinquent or criminal histories before beginning heroin use. Opiate addiction is a complex phenomenon dependent upon more than the pharmacology of the drug, but involving also its availability, the route of administration (intravenous use appears to be more likely to culminate in addiction than either oral use, smoking, or sniffing), individual personalities, conditioning, and sociological and environmental factors (including the values and support of the subculture of which the user is a member).

Partial prohibition is an attempt to obtain much of

the benefit of full prohibition in reducing nonmedical use of drugs by retaining sanctions and enforcing the law against distribution, and in particular commercial distribution, while at the same time according to the individual a degree of autonomy over his personal life and attempting to reduce the other social costs of punishing these distributions.

“Changes in Reactions to Deviance: The Issue of Legalization of Marijuana,” by B. Krishna Singh, LaVerne D. Knesek, Larry D. Adams (Fall 1979). This paper examined the changes in societal reactions to deviance and some of the factors which might prompt such changes. As an example, the issue of legalization of marijuana was examined. Data used for the study were from two independent national surveys of adult Americans conducted by the National Opinion Research Center in 1973 and 1976. Although the original samples were 1,504 and 1,499, for 1973 and 1976, respectively, there were certain sample attritions because of nonresponse.

The study examined how different social audiences will categorically label marijuana use and how changes in such labels occur. It was found that age, education, religiosity, tolerance, and metropolitan influence had significant relationships with attitudes toward legalization of marijuana. However, it is also important to note that almost all categories of respondents showed gains in approval of marijuana legalization.

An increased tolerance of marijuana use and approval of legalization of marijuana might also be attributable to factors not considered in the study. Some of the possible factors may be personal experiences and contiguity to users. For example, to those who have used marijuana including those currently using it, legalization of marijuana would remove the stigmatization of criminality associated with such use. Those who do not personally use marijuana but know of persons who use it might also change their opinions on the basis of contiguity to users. It is also possible that efforts to control the spread of marijuana use seem to have failed, and thus more and more people are resigned to the fact that it will be used by a greater proportion of the population. As recent estimates indicate, nearly 1 out of 5 adult Americans have used marijuana, and trends are that more people are becoming users. Cultural options exercised by a society in viewing and labeling its deviant acts can change depending upon many factors, perhaps the most important of which is the extent to which members of society participate in a deviant act.

“Junkie Work, ‘Hustles’ and Social Status Among Heroin Addicts,” by Patrick Biernacki (Fall 1979). Although the general relationship between heroin addiction and criminal behavior is widely acknowledged, little is known about how addicts come to engage in particular types of crime. This paper presents a detailed description and analysis of the criminal activities reported by 1,248 narcotic addicts committed to the California Rehabilitation Center for drug addiction. The study findings confirm the general relationship between addiction and crime. However, the data also show that addicts often come to concentrate their hustling efforts in particular types of crime—that is, most addicts develop a main hustle.

The way that street addicts “take care of business,” hustle to support their habits, in many respects is quite similar to the legitimate work of people in the conventional society. The similarities are especially apparent in the ways that both work to socially define identity and influence self-esteem. The ways that addicts hustle, the ways they manage and resolve the particular problems

of their lives, are commonly taken as indications of their personal competence and the quality of their character. Addicts' ability to successfully perform the requirements of a specific type of hustle also has consequences for the position of relative social status that will be attributed to him in the heroin world. Hustles that have a relative high status in the heroin work seem to be those that maximize the possibility of financial (or drug) gain and at the same time entail minimal risks of personal harm and/or arrest. Dealers, for example, who do not sell heroin on the street, are placed in comparatively high status positions by other members of that world.

Generally speaking, people who hold positions of high social status are respected by others and treated with relative deference. From a social-psychological perspective, deferential treatment that is based on perceived social status would also be expected to affect how a person feels about and evaluates himself—that is, his sense of self-esteem. This relationship between social status and self-esteem was also explored in the CRC study. One part of the study questionnaire included a series of items that were intended to provide an empirical measure of self-esteem. In general, the data show that drug dealers more frequently had high self-esteem scores than did those addicts who engaged in other types of narcotic hustles. Confidence games, when they are successfully completed, typically result in immediate profit, involve a minimal risk of violence and/or arrest, and are thought to be highly sophisticated types of crimes. Therefore, conning as compared to begging or boosting should be delegated a higher status—and this point is also clearly reflected in the data. An addict's hustle and his sense of self-esteem are closely related.

Similar to the way that certain societal conditions and attitudes that are prevalent in the general society restrict the life chances of many of its members, these same conditions are also operative in the heroin world and function to restrict participation in certain hustles to particular kinds of addicts. For example, racial prejudices and suspicions, sexual stereotypes, and discrimination are also apparent in the hustling world. However, in many instances these otherwise negative conditions

and attitudes are actively taken advantage of and turned around and used against the society to the benefit of the hustler. In this study, race was found to be significantly related to almost every type of hustle the respondents reported as the main method they used to support themselves.

The addict under "normal" conditions, when he is not desperate, is not like some marauder aimlessly plundering the city—although to outsiders and his victims he is probably this and much more. Rather, in his normal pursuits to satisfy his habit, the addict tends to specialize in hustles that seem to have the best chance of success, given his knowledge, skills, and inherited characteristics.

"Reasons for Not Using Licit and Illicit Drugs: The Role of Experience with Illicit Drugs," (Fall 1979). Despite extensive treatment and prevention programs for illicit drug use, little is known about people's reasons for abstaining from substances and about the factors affecting their reasons. Therefore, a random community sample and snowball sample of polydrug users (1,190 adults) were asked to give their reasons for abstaining from a wide range of substances. Contrary to common belief, (a) the individuals highest in experience-with-illicit-drugs are most likely to abstain from prescription and illicit drugs because of health concerns, and (b) the reasons given by the most experienced individuals for illicit drugs are similar to those given by the least experienced for common, licit substances. Disapproval of others, illegality, and dependence potential tend to be unimportant reasons. Implications of these and other results for treatment and prevention strategies are discussed.

If need and health constitute general concerns of illicit drug users, then treatment oriented toward these issues should be more effective than treatment directed at the other issues—issues with which illicit drug users seem to be unconcerned. The results also have implications for prevention campaigns. In the long run, the most effective prevention strategies will be those based on issues that (1) have been demonstrated to be of concern to many people, and (2) do not erode or lose effectiveness as individuals become more experienced with illicit drugs.

Your Bookshelf on Review

EDITED BY BENJAMIN FRANK, PH.D.

Introductory Textbook on Criminal Law

Criminal Law, Justice, and Society. By Frank R. Prassel. Santa Monica, Calif.: Goodyear Publishing Co., Inc., 1979. Pp. 410.

The author of this ambitious and comprehensive textbook on criminal law, holding both a law degree and a Ph.D., attempts with considerable success to integrate academic criminology with criminal law. The three major sections of this book deal, respectively, with perspectives, principles, and problems. Each section provides illustrative cases and statutes, so that there is a combination of conceptual materials and case materials throughout the book. A glossary, bibliography, and index increase the usefulness of the book as a text.

The perspectives section provides an explanation of law as a means of social control, utilizing sociological material on norms and deviance; a discussion of theories of jurisprudence; a review of legal and penal history in Europe and America; a brief definition of crime and discussions of incidence, characteristics and causation; comments on the role of the victim; a review of such concepts as due process, vagueness, retroactivity, double jeopardy, and entrapment; and an analysis of the phases of criminal justice: investigation, apprehension, conviction, jurisdiction and immunity.

The section on principles reviews punishment (briefly including correction), *mens rea*, acts, defenses; and such related offenses as organized crime and conspiracy.

The final section on problems discusses the usual, and

some unusual, groups of crimes: violence (such as murder and rape), property (including white collar crime), vice (including gambling and drug abuse), public safety (traffic offenses, driving while intoxicated, weapons, disorderly conduct, riot) and the state (including civil rights and official misconduct).

All three sections, particularly the first and third, clearly bear evidence of the author's efforts to integrate social scientific theory and research with criminal law. Thus, the point is made repeatedly that the operation of American criminal law discriminates against the poor in favor of the rich, and against the minority in favor of the majority. "The wealthy and powerful receive special benefits at almost every stage of the process." (p. 107). "The typical poor defendant therefore seldom obtains theoretically available benefits." (p. 126). This same observation is extended to other societies: "Under both historical and international comparisons, execution appeared to be one means of protecting dominant social interests through systematic oppression of minorities." (p. 140).

Questions are often raised about the inequities and problems in coping with white collar crime and organized crime. "Criminal law has become dependent upon such peculiar elements as plea bargaining, bureaucratic custom, and private interests." (p. 107). "... organized crime wields great power over government and agencies of justice." (p. 226).

The strong influence of values and public opinion, as opposed to research-based knowledge, on the processes of criminal law and criminal justice is recognized. "Both the public and agencies of criminal justice tend to respond rather than act, and their reactions are guided primarily by custom and faith rather than logic and knowledge." (p. 99).

There is clearcut understanding of the impact of the organization upon behavior. "... reported apprehensions are really more an indication of agency policies and operations than a measure of illegal activity." (p. 101).

At times, Prassel is pragmatic, even cynical, as well as research-aware in examining crime and criminal behavior. "Studies indicate that at least in America, the typical citizen occasionally engages in serious violations of penal law." (p. 101). "... trial can sometimes be little more than an exercise in misrepresentation, either by accident or design." (p. 105).

His approach to policymaking and the legislative process is no less realistic. "Laws are written by legislative bodies subject to an incredible assortment of powerful pressures and influences." (p. 49). "Routine modification of law, in criminal as well as civil matters, usually occurs not by accident or logic, but in response to action by organized groups." (p. 45).

The crosscultural comparisons throughout the text are often uncomplimentary to the United States. "Some nations, such as Switzerland and Singapore, have demonstrated an ability to build creatively on a mixture of norms which far surpasses that shown by much larger and powerful countries." (p. 8). "... there is no doubt that certain other national systems of justice are more efficient." (p. 108). "... European nations provide a wider range of punishments than the United States." (p. 128). "Europe has long demonstrated a far closer tie between penology and criminal law than either the United States or England." (p. 37).

He is concerned about our American obsession with crime, which has produced "little of practical value or originality." (p. 45). "The greatest danger is simply that fear of crime may produce an even more terrible

tyranny." (p. 67). Our inefficiencies, bureaucratization, overreliance on spending programs, growth in commercial fraud and tendency toward violence and excessive drinking are all stressed.

In his encyclopedic review of material and concepts, the author occasionally makes statements that would seem to call for proof or at least some documentation. For example: "Official misconduct currently flourishes in less obvious forms, particularly through bribery, collusion, and conflict of interests. In these aspects the nation supports a staggering burden of corruption by elected and appointed agents. The problem and the danger are acute at all levels, reaching from local police officers to the highest offices in the land." (p. 378). The reader is entitled here to some documentation, but no reference is given to studies or research substantiation, although related points are footnoted later in the same section. Early in the book, on page 26, he notes that "only about sixteen true legal systems have been identified" but does not list them much less review or critique them. On page 305, he states without documentation: "America devotes extraordinary attention to controls on sexual conduct." On p. 324, he states without documentation: "Drunkenness is an offense of vast magnitude in the United States; it accounts for more arrests, excluding traffic violations, than any other violation." And on the next page: "An estimated ten million Americans are alcoholics." On page 272: "Child molesting appears to be committed primarily by persons with rather severe emotional disturbances."

Prassel uses a lot of colorful and sometimes extravagant adjectives to express his convictions or to report conditions, such as "astonishing" (p. 31), "staggering" (p. 378), "sweeping" (p. 374), "unmatched" (p. 334), "extremely significant" (p. 306), "extraordinary" (p. 305), "absurd." (p. 156).

But these are minor defects. There are others, to be sure. The attempt to cover a great deal of ground makes the discussion of law enforcement, as well as correction, superficial.

However, the extent of his scholarship is impressive. The incorporation of social science concepts throughout the book is extensive. Law students using this textbook are not likely to perceive criminal law in a traditional or dogmatic light. They should be able to understand the dominance of upper middle class and business values in criminal justice, and the resulting discrimination toward the poor, as well as the need for clarity of thought and perception in the criminal law. A professor of social work can be reassured about the preparation of law students using a text with such breadth, vision, and insight.

University of Alabama

CHARLES S. PRIGMORE

More on Inmate Subcultures in Correctional Settings

Designing Correctional Organizations for Youths: Dilemmas of Subcultural Development. By Craig A. McEwen. Cambridge, Mass.: Ballinger Publishing Company, 1978. Pp. 246.

This book is one of five produced by the Harvard Law School's Center for Criminal Justice on the reform of the Massachusetts Department of Youth Services. This reform movement (1969-1976) closed the state training institutions and created in their stead a network of community-based services.

Two Harvard research teams studied the inmate sys-

tems or subcultures of "twenty-three juvenile correctional settings in Massachusetts, ranging from a punishment cottage in a training school, to several therapeutic communities, to two non-residential programs in the open community." The author found that inmate norms, beliefs, and behavior varied according to the organization and structure of these correctional settings. On the basis of these findings, the author argues that correctional staff can change the behavior and beliefs of youthful offenders—at least in the confines of the correctional community.

There are three crucial organizational dimensions of the correctional community that can be controlled and managed by correctional administrators. They are (1) equality, (2) participation, and (3) supervision.

The dimension of equality refers to the extent that barriers are deemphasized between staff and inmate and between staff members. The more that traditional barriers are eliminated, the greater the possibility for inmates and staff to establish meaningful relationships which may become a basis for developing mutual feelings of understanding and trust.

However, in order to significantly impact the informal life of offenders and their values and beliefs, it is also necessary to obtain the meaningful participation of inmates in an ongoing program of activities—not necessarily of their own choosing. Participation refers to the extent that inmates are assigned and take the responsibility to organize the correctional environment of which they are a part. The more that inmates assume responsibility for organizing and carrying out their own programs, the more likely they are prepared to adopt conventional behaviors and values.

Supervision refers to the extent that staff members are involved in the programs in which inmates participate. In order for staff supervision to be effective, the inmate staff ratio must be low enough to ensure that supervisors can enforce the community's rules.

Consequently, the establishment of equality creates the climate for a meaningful relationship to exist between staff and inmate. Participation creates pressure for inmates to assume responsible roles in the correctional community, and supervision helps to ensure that the climate for change is maintained.

These observations are the result of two separate studies—one accomplished before the closing of institutions (1971) and the second after their closure (1973). The first study focused on 10 cottages in three institutions. The second looked at 13 programs which were community-based and apparently organized after the closing of the institutions. Study procedures for both studies were similar, utilizing a combined questionnaire and participant observer approach. The data collection instruments of the first study were modified for use in the second study.

As a result of the study, the author recommends that correctional policymakers and planners should stress the development of inmate systems and pay less attention to the concept of rehabilitation and the reduction of recidivism. The goal of correctional reorganization should be to establish humane and well-managed penal programs in which suitable opportunities are presented for treatment and rehabilitation.

This reviewer likes these recommendations but is not too sure that the information collected necessarily supports the study findings. Does multiple-regression analysis really add much to a strictly qualitative analysis of the materials collected? The technique yields a misleading precision to the findings, although the reader is informed that "the regressions are intended solely as descriptive and exploratory devices."

Also, the author does not provide the reader with a basic count of the number of persons included in each of the 23 populations which he studied. For example, in table 1-2, he describes the characteristics of the 23 inmate populations in percentage figures, but does not provide the actual numbers on which the percentages are based. For the reader's benefit, there should be a table showing, for each program, the average number inmates in each of the programs studied, the number responding to questionnaires, and the numerical distribution of each of the 23 populations, by age, sex, ethnicity, and other characteristics. Without such information the reader has no basis for evaluating the adequacy of the data collected, upon which the findings of the study rest.

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KEITH S. GRIFFITHS

American Social Work Looks at China

China View: First NASW Study Tour. Edited by Chauncy A. Alexander and Sally J. Alexander. New York: National Association of Social Workers, May 1975. Pp. 357. \$6.95.

A report of the First NASW Study Tour to the People's Republic of China (June 1977) this book is written in a straightforward style, chocked full of professional and human interest information about a country most of us know very little. The tour group of 20 social workers consisted of people from various fields of social work practice and academia. They could almost have been selected from a Who's Who in Social Work. The report is a collection of observations, inquiries and impressions of the tour written individually and collectively by the group as they viewed China practice in their area of specialization. The need to understand the social, cultural and historical context of what is being viewed in this 21-day tour is probably basic for any traveler to a foreign country. In this instance it seems much more difficult to make the leap in thinking and understanding from life in the USA and Western culture to life in the People's Republic of China.

The contents are organized in the following manner: an overview of the country—geography, population and history followed by a day by day account concluding with a section on selected issues and policies, i.e., women's issues, ideology, economic issues. An appendix includes a glossary of terms, bibliography, historical chart, Chinese Constitution and Governmental structure, etc. There are occasional pictures throughout the book. The progression of the tour immediately gives the reader a feeling of concern and care for people.

The preface encourages one to read on—"drug abuse and crime have been eliminated in today's China. We walked the streets day and night with no fear . . . housing, clothing, health care and education are available to all, on virtually an equal basis, although improvements are needed in many areas, there is full employment, no inflation and prices are the same in each location . . . all Chinese have adequate food—there are no more famines." How did they do it? and without lawyers and professional social workers?

An unusual characteristic of the workplace in China is that it is the primary provider of social welfare services. Major industrial facilities have their own fully equipped hospitals which provide free health care to workers, their families pay one-half the cost of care. Health care costs are fantastically low, e.g., \$1.00 a day for a hospital bed and \$16.00 for a major operation. Medical practice is a combination of Western and Eastern

knowledge using modern and ancient techniques and remedies, i.e., herbs and acupuncture. Medical services are community centered, preventive, interventive and rehabilitative. Personnel rotate from urban to rural settings. Political education and ideology is a major component of psychotherapy and permeates decisionmaking in all areas of life in China. The Chinese recognize that confrontation between old and new ideas is one cause of mental illness. Others include competition, class struggles left over from the capitalist society, interpersonal stress, intrafamily conflicts and self-criticism. Neurotics are not considered ill but in need of reeducation (careful study of Chairman Mao's works—Volume V seems to be a favorite). It is interesting to note that the doctor studies with the patient so that there may be some treatment effects of the relationship.

The chapter on Criminal Justice is written by David Fogel and is based on Fogel's study of Mao. It is a penetrating and illuminating account chocked full of information and the insights of an expert. Case illustrations of Criminal Justice process and contrasts with the U.S. system are made. There are only a handful of part-time lawyers in China as China distrusts and fears the emergence of a legal class. Reeducation and labor are the primary methods used to help the Chinese offender reenter society. For severe crimes such as contributing to the delinquency of a minor, the offender may be shot. There is only one prison in Peking. Reeducation in the community seems to be the preferred disposition.

It would be useful to learn more about the planning and development of this tour and later afterthoughts about how it could have been improved to establish some guidelines for such future study tours by other groups. Perhaps the authors might wish to consider this in a supplemental publication.

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HARVEY TREGER

What and Where Is Criminology

Criminology in Focus. By A. Keith Bottomley. New York: Barnes and Noble, 1979. Pp. 181. \$21.00.

This book is neat—not only in the idiomatic sense of the word but also in the standard meaning of tidiness. It is succinct, readable, orderly and chock full of things one would want to know about criminology's recent past and seeming future. Written by an English criminologist from the University of Hull, the book reflects the lucid and masterful verbal expression expected of English writers. In terms of its size and efficiency, the book is like Radzinowicz' *Ideology and Crime*, another British product published in 1966. Both books offer very handy and sharp peeks into the development of criminology.

As one who is frequently called upon to review foreign criminological writings, especially those done in Britain, this reviewer continues to be impressed by how much of the Western world's criminology is American. Without the substance provided by American criminologists, Bottomley's book would be unbearably sparse. Furthermore, Bottomley is very much attuned to the most recent criminological trends in America and his book serves the American student of criminology as well, if not better, than the British student. Whether by design or by force of scholarly circumstance, the book is oriented to the American criminological scene. This is not to say that the book is lacking in British references, and there

can be no denial of an English flavor in presentation. What we have is something like the export of American materials to Britain for value-added processing prior to its return.

Inasmuch as criminology integrates several disciplines without a firm commitment to a specifically defined methodology, criminologists are often asked what academic discipline lies at the heart of the criminological enterprise. It is a difficult question which the prudent criminologist probably does well to avoid. However, upon reading a book such as this, one is likely to get the feeling that criminology is mainly a historical discipline. Bottomley, at numerous points within the book, emphasizes the desirability of analyzing events in terms of social climates. In considering the futile search for the "criminologist's stone" and the trend away from single factor approaches, he observes that the early "criminological monoliths" have given way to a variety of radical or critical perspectives accompanied by the rise of typologies where each category has its own explanation. He claims that "societies have the theories of crime they need" and he rejects the notion that there is some sort of natural progression in the way theory supersedes theory. Thus, in the first two chapters of his book (there are four altogether plus a brief epilogue) he examines the questions of what is crime and what is its cause by means of a historical analysis of social, political and academic contexts. He concludes that we can expect little dramatic progress from the multifactor and typologies strategy and that we ought to give up exclusively pursuing explanation in its "scientific" form. Predictive, probabilistic explanations are inadequate. He argues for explanations which are not solely dependent on empirical generalizations and which are subjectively meaningful, essentially plausible and retrospectively intelligible.

In the third chapter of his book, Bottomley discusses problems and issues in criminal justice. (It might be of some interest to those who like to debate the respective boundaries of criminal justice and criminology, to note that Bottomley tends to view criminal justice as falling within the scope of criminology.) His analyses rely heavily on the organizational and bureaucratic perspectives advanced by American criminologists such as Abraham Blumberg and George Cole. He subscribes to the idea set forth by the American Friends Service Committee in 1971, that it doesn't make sense to construct a just system of criminal justice in an unjust society and that the resolution of the issues of social justice should take precedence.

The book's final chapter is entitled "Toward the Rehabilitation of Punishment." In it, Bottomley recognizes the decline of the "rehabilitation model" and the rise of the Justice or Desert model. He supports the Justice model and modifies it with his own concepts having to do with restitution, reparation and social reconciliation. He argues in favor of a deserved punishment which would be in accord with the traditional idea of social contract and which would be the instrument (expiation) for "requalifying the offender for a place in society."

As a way for making amends, as a way for society to effectively declare its disapproval of certain behaviors and as a way to prevent "demoralization" in a society, a deserved punishment is removed from humanistic theory and sits at the center of a free and orderly society. In Bottomley's view of criminology, ethical analysis is of vital importance. In the very last paragraph of his book he states: "the limits of criminology as I see them, imply the restoration to a wide range of academic and sociopolitical contexts of a shared responsibility for serious

examination of the values and structures of modern society as they impinge upon deviant behaviors and other unacceptable conditions of social life." The focus of criminology might then be one which does not hold the individual as a victim but holds ideology as the victim.

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EUGENE H. CZAJKOSKI

A Critical Examination of the Presentence Report

Reports for Criminal Courts. By Fred Perry. West Yorkshire: Owen Wells Publishing Company, 1979. Pp. 134. £3.95.

The author sets the tone for this book in the first sentence when he states that "the administration of justice is one of life's injustices," and a few pages later when he adds that "the really effective sentence is more of a myth than a reality." While neither of these observations is particularly earthshaking, they are obviously not intended to give aid and comfort to defenders of the status quo.

Reports for Criminal Courts is effectively organized into eight chapters. The first chapter is concerned with general aspects of sentencing procedures in England and Wales. The second and third chapters relate to the American criminal justice system with emphasis on the presentence report and the defense memoranda. Chapters four, five, and six discuss related practices in Europe; particularly the Netherlands, England, Wales, and Scotland. Chapter seven presents a sort of overview of the similarities and differences in the contents and presentations of presentence reports. And, finally, chapter eight offers a critical analysis of the presentence report and related activities and provides several specific recommendations for improving the practice.

The book's major theme is that the presentence report and related activities have developed over the years without careful clarification of objectives or clear specification of philosophical grounds. Consequently, there has been little increase in sophistication of such reports with the passage of time. To support his position, Perry notes that in England and Wales the probation service evolved through three distinct stages: surety, expert on probation, and expert advisor over the entire range of sentencing options; meanwhile, the presentence report remained largely unchanged. As a result, practices which may once have been sufficient and/or relevant may no longer meet the criteria required for efficient performance under present circumstances.

Perry's recommendations for improving the situation are simple and straightforward. First, the focus of the presentence report should be directed toward the types of sentences available to the courts; namely, nonsupervisory, supervisory, and custodial. Second, a standard format for such reports should be agreed upon. Third, the reporting agencies should take responsibility for the quality of their reports. Fourth, the reports should be channeled through an independent panel of experts to insure quality. And, finally, a series of ongoing forums between sentencers and their advisors should be established. Certainly, these recommendations are neither new nor revolutionary, and if practitioners could agree on just exactly how best to implement such procedures many of them would probably be in wide use already. Unfortunately, Perry is not very helpful in this matter, and only time will tell whether this book will have any appreciable impact on the system. However, the book's

major strengths reside in identification and discussion of problems so the book still makes a valuable contribution regardless of the extent to which its recommendations are adopted.

The major limitation of the book is that it is simply too ambitious. Perry tries to cover too much material in too few pages. This is most evident in chapter four where he looks at the presentence reporting practices in Europe. He begins the chapter by offering descriptions ranging from one sentence to several short paragraphs on the practices in about a dozen different countries, and then devotes deeper attention to the Netherlands. Although his comments are obviously carefully selected and well thought out, the overall effect is similar to one of the "See Europe in Seven Days" tours. Namely, everything tends to blur together. It would have been more desirable to reduce the number of countries discussed in the chapter or to substantially increase the number of pages allotted to the discussions.

In the way of a summary, I should note that *Reports for Criminal Courts* is an objective, thoughtful, and well written critical examination of probation services and presentence reports in Europe and the United States. It fills an evident void in the professional literature and should be mandatory reading for students, teachers, and practitioners of the criminal justice system in the United States and Europe.

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JEFFREY L. SCHRINK

A Psycholegal Survey of the Criminal Justice Process

The Criminal Justice System and Its Psychology. By Alfred Cohn and Roy Udolf. New York: Van Nostrand Reinhold, 1979. Pp. 352. \$17.95.

The authors, both professors at Hofstra University, clearly state that their primary purpose of authorship was to produce a text for their course in the psychology of the criminal justice system. Based upon the book's content and their particular academic specialties, (psychology and law), they have succeeded.

As a text, attempting to blend the two disciplines, they have highlighted and summarized the historical bases, addressed most of the current issues and controversies of their fields, and have produced a readable text that should make their course interesting and challenging.

Their caveat in the Preface that the "justice system" is not a system and "probably causes more crime and recidivism than it prevents," may not be news to those intimately associated with the "justice process," but certainly needs to be repeated and heard in the legislative halls of this country, as well as in our classrooms and living rooms.

The authors also point out the necessity of a multidisciplinary background in order to understand the various problems and ramifications of the "justice system."

As an alumni of the now defunct Berkeley School of Criminology, which produced 118 multidisciplinary doctorates of criminology before its premature and political demise in 1971, I can attest to the importance and validity of the multidisciplinary approach in understanding the "justice system."

Earlier supporters and writers (Lohman, Blummer, Clark, Geis, Adler, Selznick, Diamond, Messenger, et al.), of this philosophy have attempted to bring the multi-

disciplinary approach to fruition, but have had only partial success. On this point, the authors in chapter 7, (Lawyers, Psychologists, Psychiatrists and Social Workers), describe the various educational and training programs for these disciplines. Through their own negligence or ignorance of other disciplines directly impacting the "criminal justice system," they neglected to address the over 1,000 schools, colleges, departments and programs in criminology and criminal justice. They also omitted an equally significant number of sociology departments that also address the problem of crime in our society. What is important to keep in mind, is that multidisciplinary education truly means just that. A psychologist-attorney would typically be weak in the social science knowledge, literature, and research. A sociologist-attorney would be weak in the behavioral science research and literature and the list could continue ad infinitum. We tend to take from our specific disciplines the particular body theory, principles and biases and presume they are "the most valid." In a truly multidisciplinary education—none are so valid as to escape critical analysis and acknowledgement that combined, we may have a better chance at understanding and changing our criminal justice and other social institutions.

The bias of the book, contrary to its multidisciplinary posture, is clearly seen at p. 52 where "sociological approaches" are limited and superficial in coverage. A third coauthor (sociologist, criminologist or social worker) would have made the book more relevant and comprehensive.

Chapter 11, Psychology and Jury Selection (p. 203), represents a good overview of the subject for the beginning student as do most of the chapters dealing with the psychological aspects of trial and postconviction situations. At p. 299 the authors briefly summarize the state of and need for alternatives to incarceration. They point out that . . . "as many as 85 percent of those incarcerated do not represent threats to public safety . . ." Such a profound statement deserves an entire chapter, if not an entire book on the subject.

Finally, some readers may feel the book is too geographically limiting to the Eastern States (New York), especially as it deals primarily with New York's legal code. Though this may be a minor complaint, the overall coverage, presentation and style will make it a worthwhile contribution to the fields of law and psychology. Should the authors develop a 2nd edition, it is highly recommended that they add a third author (social sciences).

San Diego, Calif.

G. THOMAS GITCHOFF

The Moral Justification for Capital Punishment

For Capital Punishment. By Walter Berns. New York: Basic Books, Inc., Publishers, 1979. Pp. 214. \$10.95.

The pendulum of punishment appears now to have swung too far to the left with its individualized sentences which seeks to rehabilitate and reorganize the life of persons drawn up into the criminal justice process as convicted defendants. It now appears to be swinging toward a stationary right. This provides a reconstituted philosophy which rejects the defendant almost totally leaving him or her with almost the same future experienced by those who entered the Auburn or Pennsylvania penal systems of not too long ago. This same pendulum appears to have attracted support of the death sentence.

Author Walter Berns provides the classic discussion of the death penalty and advocates the supreme penalty somewhat as a moralist depicting that the death penalty represents man's undeniable right to exercise this option when it serves the society's need for self-preservation. Americans support capital punishment "for some criminals so long as it is carried out privately and as painlessly as possible." (p. 35)

Some would agree with Dr. Benjamin Rush "that every problem has its solution and every disease its cure." (p. 57) This distinguished prison reformer and opposer of the supreme penalty saw that the penitentiary did not make inmates penitent, but made many worse for their experience. For this reason others have indicated that prisons should be abolished. But prisons historically have substituted for corporal or capital punishment as well as for transportation and banishment.

Prisons are part of our current punishment system. Author Berns provides no alternative, except to discuss the question of deterrence in the utilization of capital punishment. He shakes the logic, if not the facts on deterrence provided by various researchers including the studies by Dr. Thorsten Sellin.

The design of this book is to provide a careful argument supporting capital punishment on moralistic grounds. Based on social contract, ". . . men agree to yield their natural freedom to the 'sovereign' in exchange for his promise to keep the peace. As it becomes more difficult for the sovereign to fulfill his part of the contract, there is a demand that he be made to pay for his nonperformance. From this comes compensation or insurance schemes embodied in statutes—." (p. 174) If citizens see that the society is threatened by criminal offenses, their anger toward the offender offers deterrence to potential wrong doers.

Citizens according to the author should be concerned with their citizenship and their lives and expect the government to protect them. Dr. Berns presents an interesting argument on page 176 when he states that if the country wants us to defend it with our lives why cannot these same heroes be honored by the government with a right to execute its worst of criminals. "By doing so, it will remind its citizens that this is a country worthy of heroes."

In his final chapter the author argues that the death penalty is not cruel, but unusual in its administration. There has been no invalidation of the death penalty in the United States on judicial grounds, and it has been upheld on retributive grounds. The author closes with "at least implicitly, that the American people are entitled as a people to demand that criminals be paid back with their lives. In doing this, it gave them the means by which they might strengthen the law that makes them a people, and not a mere aggregation of selfish individuals." (p. 189)

This book is forthright with heavy emphasis on the philosophical foundations of capital punishment and imprisonment generally. The statistics supporting some of the arguments are secondary and are somewhat out of date considering primary sources. For example, in the conclusion of the chapter "The Deterrence Question and the Deterrence Problem" (p. 125) statistics which presumably support a downtrend in Federal convictions are provided along with a parenthetical statement "And there is every reason to believe that the same thing is happening in state courts as well." The author states that guilty and nolo contendere pleas in Federal courts dropped from 1964 to 1971 by giving the conviction rates of 78.7 and 61.7 percent, respectively. The 1971 conviction rate was

actually 72.0 and the published 1978 conviction rate stands at 79.5 percent. The 1971 drop can be easily explained due to a 28.1 percent increase over 1964 in total defendants disposed of and a marked change in the types of offenses prosecuted in 1971. As an example, in 1964 there were only 276 defendants prosecuted for Selective Service violations of which 81 percent were convicted. In 1971, there were 2,973 Selective Service violators of which only 35 percent were convicted.

The book has a helpful index and the footnotes are comprehensive and will be most useful to those who are studying this subject. The book is a satisfactory view of the new awakening of this vital issue. It deserves serious consideration by those who are seeking a philosophical argument for supporting the death penalty.

Washington, D.C.

JAMES A. McCafferty

Prisoners Petitions: Aid for the Beleaguered Judiciary

Compendium of the Law on Prisoners' Rights. By Ila Jeanne Sensenich, United States Magistrate for the Western District of Pennsylvania. Federal Judicial Center, 1979. Pp. 503.

According to statistics published by the Administrative Office of the United States Courts, during the 10 fiscal year period ending June 30, 1979, prisoner petitions in the Federal courts have increased from 15,997 filings in 1970 to 23,001 in the past 12 months; this amounts to a 43.8 percent growth in the caseload. By far the most significant change has occurred in cases brought by state prisoners under the various civil rights statutes (principally 42 U.S.C. Sec. 1983). Here one finds an increase of 451.4 percent, from 2,030 to 11,195 actions commenced. Not surprisingly, the literature on this topic also has increased geometrically. There are numerous sourcebooks, law review articles, "how to file" pamphlets, textbooks, and other documents crowding the shelves. While relevant to the scholar, practitioner, or interested reader, much of this writing appears to have been developed as an aid to one party in such litigation or the other. The Federal judge, the arbiter of these causes of action, has had the burgeoning district, circuit, and Supreme Court case law to look to, but can find no single, useful resource volume. While staff attorneys in various Federal appellate courts produced outlines and collections of their circuit's law, there was nothing national in scope to work with.

This was the dilemma facing Magistrate Sensenich as she tried to handle her increasing caseload of prisoner matters, and to alleviate that void was the goal that she set for herself. The *Compendium* started out as her own benchbook, it grew as her expertise on the subject was identified and she began conducting seminars and leading discussions on prisoner matters, and it was completed by her at the urging of the Center's Prisoner Civil Rights Committee, a group of judges appointed to study the problems created by prisoner petitions and to recommend procedures to deal with them. A reading of the end product overwhelmingly demonstrates how Magistrate Sensenich has solved the dilemma and has achieved her goal.

The text begins with a detailed comparison of habeas corpus and prisoner civil rights petitions and proceeds to examine in depth the various aspects of the latter courses of action. It discusses the opinions on *forma pauperis* and explores the frivolous and malicious test; it reports on the requirements for causes of action under 42 U.S.C. §§ 1983, 1985 and 1986 as well as those brought

under 28 U.S.C. § 1331. Cases brought under the various sections of and amendments to the Constitution are detailed. Further, there is analysis of both defenses to these petitions as well as of dispositive motions under the Federal rules. Finally, the text contains a discussion of the various aspects of the relief stage of these cases.

While the piece contains no index (an arguable flaw), there is a richly detailed table of contents to direct the reader to the relevant sections and specific references. The Center published the *Compendium* in a loose-leaf format with the intent that the user would perform updates and would make additions and insertions.

There is one major problem with Magistrate Sensenich's effort; it is a defect not attributable to her and is a criticism that validly can be made about all works of this genre: the *Compendium* is current only as of the date it went to the printer. With the huge number of filings and the continued issuance of opinions at all Federal court levels, the situation changes rapidly and the ground rules are in a state of flux. In this instance, the important Supreme Court ruling in *Bell v. Wolfish* was issued while the text was at press. The continued utility of the treatise thus truly depends on the reader annotating and cross referencing new decisions.

In the foreword to the *Compendium*, it is noted that "the work is not presented as a comprehensive treatise on prisoner case law; the cases set forth are designed to be illustrative only." This disclaimer seems unnecessary and overly modest. Magistrate Sensenich has brought together in one volume an incredible wealth of information dealing with a broad and complex area of the law. It is sure to be an invaluable resource to the Federal Judiciary and will serve as an important research tool to all those interested in this type of litigation.

Washington, D.C.

ALAN CHASE

Current Issues in Crime and Punishment

Criminology Review Yearbook, Volume 1. Edited by Sheldon L. Messinger and Egon Bittner. Beverly Hills, California: Sage Publications, 1979. Pp. 768. \$32.50.

The reported increase in crime is only matched—if it is not exceeded—by the outpouring of books about crime. The volume under review is among the most recent of these, and impressive if only in its 768-page bulk.

This "Yearbook" (Volume 1 in what is described as the first of a series) is an anthology of readings, culled from articles and books published in the past couple of years, "designed," in the words of the dust jacket "to help researchers and professionals to keep abreast of their rapidly growing and changing field."

A total of 33 chapters comprise the work, only five of which have not previously appeared in print. The editors contribute 33 pages, which includes the prefatory material and a few pages introductory to each of the major sections of the book.

Any reviewer, like any author, is entitled to harbor his bias, so long as he conveys this to the reader openly or by implication. Mine is in favor of original work rather than books of readings, those which the critics describe as "non-books." The "publish or perish" doctrine in our universities is a major cause of the proliferation of books, stimulated in the crime field by the enormous demand for texts intended for a growing student population interested in criminal justice. The editors—Messinger of the Berkeley Law School and Bittner of Brandeis

University—are obviously not in need of additional items on their bibliographies.

The motivation for the book's appearance must therefore spring, as the editors state at the outset, from a desire to bring together significant contributions to an understanding of the issues which today confront criminologists and penologists.

A group of distinguished authorities serving as associate editors have been drawn from this country, England, Israel and Canada. It is they, presumably, who have guided the choice of areas which they regard as significantly pertinent. The results of their guidance are presented under six headings: the Economic Approach to Crime; Crime in Historical Perspective; Discretion in Criminal Justice; Organizational Criminality; Delinquency Theory; Prevention, Treatment and Control. The final part, a statistical appendix, sets out the latest figures on victimization, arrests, convictions, and sentences of imprisonment in the United States.

No reference is made to diversion from any stage of the criminal justice system—police, court or institution; decarceration and rising opposition to the vast construction of more, and more secure, penal stations in general—and the Olympic Prison in particular—find no place here.

The move to decriminalize status offences among juveniles, and sumptuary laws for adults is not here reflected, nor any reference made to the growing movement in reactionary circles to weaken the care and protection safeguards for juveniles and to subject them to adult court procedures, penalties and prisons. Only two articles on capital punishment appear here, despite the reenactment of the death penalty statutes in at least 37 states. Recent Supreme Court decisions which strike at the heart of basic constitutional safeguards are not set out. Victimology, a growing sub-specialty in criminology which

has recently held its third international conference in Germany this fall, is nowhere mentioned. Federal court decisions as to what constitutes civil and unusual punishment find no place here.

Mandatory, fixed and presumptive sentencing, which constitute one of the most controversial provisions of the newly proposed recodification of the Federal Penal Code, have less than 10 pages devoted to them.

Finally, there is no reference to the rapidly growing movement to create alternatives to traditional adversary proceedings in the criminal court by resort to such measures as mediation, arbitration, restitution, victim assistance, and advisory sentencing panels. Such alternatives, in their neighborhood settings, are helping to return some aspects of the administration of justice back to the community where criminal acts take place.

Judged by such a listing of issues in the forefront of current criminological and penological concern—at least as judged by the new programs which are being initiated, the funds which are being appropriated, the laws which are being passed, and the decisions being handed down by our courts, this volume of readings may be judged to have failed to live up to its title as a "yearbook" which can serve as a guide to the perplexed in the 1979 tangled vineyard of crime in which so many labor.

All but four of the included chapters are available in the literature for readers interested in each specific topic. No one scholar, researcher or practitioner could possibly possess a span of interests as diversified and scattered as what here appears. The photostatic reproduction of the original articles and chapters, with their consequent diversity of type fonts, adds to the general sense of disunity which the book engenders.

An index would have aided greatly, as a gateway by which to gain direct access to specific names and topics.

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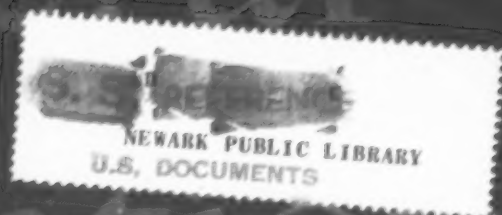
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Combining Incarceration and Probation	Nicolette Parial
Empirical Data, Tentative Conclusions, and the Future of Research About Plea Bargaining in Texas Criminal Courts	Raymond I. Parsons
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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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This Issue in Brief

Combining Incarceration and Probation.—The judicial combination of incarceration and probation can be achieved through a number of different alternatives: split sentences, mixed sentences, shock probation, intermittent confinement, diagnostic studies followed by probation, modification of a sentence of incarceration to probation, bench parole, and jail as a condition of probation. This article, by Nicolette Parisi of Temple University, describes the history behind these hybrids and the views of major commissions and model sentencing acts toward these judicial alternatives.

Empirical Data, Tentative Conclusions, and Difficult Questions About Plea Bargaining in Three California Counties.—Many observers of the plea bargaining process have long maintained that the system often works to penalize a defendant for exercising his right to trial while concomitantly depriving the public of needed protection through lenient sentencing. Until recently, however, few efforts have been made to collect data in order to verify this and other criticisms of the plea negotiation process. Asserting that any changes in the current law surrounding plea bargaining should be based on solid data, Raymond I. Parnas, professor of law, University of California at Davis, offers a preliminary analysis of empirical data collected by California's Joint Committee for Revision of the Penal Code during a unique survey of the plea negotiation procedures followed in three California counties.

The Determinate Sentence and the Violent Offender: What Happens When the Time Runs Out?—With a true determinate sentence such as California's there are prisoners who remain mentally ill when their term ends and they must be released, reports Walter L. Barkdull, assistant

director of the California Department of Corrections. Civil commitment procedures in California have proved inadequate for their treatment and control, he adds. While a legislative solution continues to be sought, the intervening experience has demonstrated both the need for a formal period of parole supervision for that kind of releasee and its capability to assist and control a particularly difficult type of offender.

Danish Use of Prisons and Community Alternatives.—The Danish criminal justice system represents an unusual combination of practical justice and humane treatment of offenders, with-

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out having to resort to extensive use of very costly prison confinement. Mark Umbreit, executive director of PACT, Inc., examines the more limited use of prisons in Denmark than in the United States. Reference is made to a cross cultural analysis of crime rates and sentencing patterns, as well as identifying the extremely humane conditions of Danish prisons. He goes on to provide a brief survey of community alternatives in Denmark.

Criminal Justice Education: A Question of Quality.—Professor Reed Adams of the University of North Carolina at Charlotte notes a lack of information regarding the nature, process, or demographic aspects of criminal justice education and discusses a recent critical assessment (Sherman, 1978) of some aspects of criminal justice education. A survey of criminal justice programs and faculty in North Carolina is reported as one aspect of the needed description of the field, and as one means of judging the quality of one aspect of criminal justice education.

Speech-Language Services for Youthful and Adult Offenders.—Limited research suggests that the incidence of communicative disorders (speech, language, and hearing) among incarcerated juvenile and adult offenders exceeds that predicted within a comparable nonincarcerated group, according to Dr. Joyce S. Taylor, chairperson, Department of Speech Pathology and Audiology, Southern Illinois University, Edwardsville. The purpose of her article is to acquaint correctional practitioners with diagnostic and habilitative/rehabilitative services available to offenders with communicative disorders and to identify community resources for continual intervention.

Victims and Delinquents in the Tulsa Juvenile Court.—In 1975, the Juvenile Court in Tulsa, Oklahoma, formalized procedures by which some offenders were required to make restitution to their victims, engage in community service, and

meet and apologize to their victims. The program is staffed by two victim coordinators who, between December 1, 1975, and November 30, 1978, have provided services to 251 victims and 291 offenders. The program is described and an analysis done of the characteristics of youth referred, the characteristics of victims, and the nature of the obligations imposed upon the youth.

Toward Job-Related Inservice Training in Corrections: Reflections on Designing Training Programs.—The purpose of an inservice training program is to increase the professional competence of the staff, and to improve the quality of the service. In reality, inservice is often used, or rather misused, to meet the organizational needs of the department or the administration. This article by Professor Yona Cohn offers a design to develop a job-related training program where the following questions are asked and answered: What knowledge, attitudes, and skills are needed to perform the job? Which of these qualities do the staff already have, and which are lacking? What teaching methods are needed to fill in the gaps?

Case Planning in the Probation Supervision Process.—It has been said, "If you don't know where you are going, any old route will do." In his article on supervision planning, Chief Probation Officer Al Havenstrite introduces a systematic approach to this much neglected area of the probation and parole supervision process. The supervision plan should address not only assessment of needs and developing of goals, but the establishment of priorities, development of action steps and establishment of time frames. In utilizing a systematic approach, the author provides the practitioner with tools which are applicable to the individual caseload or for department-wide planning. Emphasis is on practical goals and action steps which can be measured, verified, and which are realistically attainable during a period of probation or parole supervision.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.

Combining Incarceration and Probation*

BY NICOLETTE PARISI

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IN THE 19th century, incarceration was the primary sentence and confinement was perceived as a progressive step away from the death penalty.¹ Additionally, in the same century a sentence of supervision in the community gradually emerged.² In the 20th century, this sentence—probation—became legislatively authorized in every state and a widely used alternative. Thus, the sentencing decision today typically involves two decisions.³ First, the choice has to be made between confinement (in) and probation (out). Second, the length of confinement or the length of probation has to be determined.

The first part of the bifurcated decision (in or out) is subject to legislative prescriptions. For example, the legislature may preclude certain types of offenses from probation.⁴ Beyond a limited number of statutory exceptions precluding probation, judges are usually without restriction or guidance in this critical decision to confine or to supervise in the community.⁵ There is no national information on the proportion of offenders receiving these two sentences. Because there is no reporting method, such as the Uniform Parole Reports or the National Prisoner Statistics⁶ for sentencing, one of the more illusive figures in criminal justice is the distribution of convicted offenders receiving an "in" versus an "out" decision. It is estimated that between 50 to 80 percent of sentenced offenders receive probation.⁷ Although probation was originally perceived as a way to avoid incarceration through the suspended sentence, the disposition has now become established in its own right.⁸ Although there is considerable debate about the indeterminate sentence and parole,⁹ there is no doubt that probation will continue to be an integral part of the American sentencing structure.¹⁰

The "how long" decision, the second decision, tends to focus on the length of incarceration. The "how long" decision for incarceration varies by the type of sentencing structure, but a judge can usually select the length of incarceration from

a wide range set by the legislature.¹¹ Several national surveys provide data on the maximum length of sentence to incarceration.¹² The maximum length of sentence, although an important figure, may not be as important as the minimum length of incarceration, which often reflects the

* D. Rothman, *Discovery of the Asylum* 59-62 (1971); G. Newman, *The Punishment Response* 179-187 (1978).

² The development of probation in America is described in United Nations, Department of Social Affairs, "The Legal Origins of Probation," in *Probation and Parole—Selected Readings* 4 (Carter and Wilkins eds. 1970). Like incarceration, probation was hailed as a sentencing reform. See Duffee and Fitch, *An Introduction to Corrections* 184-195 (1976); Oliver, "Vengeance v. Probation in Criminal Law," 18 *FEDERAL PROBATION* 15, 16-18 (June 1954); U.S. Department of Justice, *Attorney General's Survey of Release Procedures*, Vol. II, at 17 (1939). The sentencing alternatives described in this article are also referred to as reforms.

³ Two recent sentencing studies discuss sentencing as a bifurcated decision: Wilkins, Kress, Gottfredson, Calpin, and Gelman, *Sentencing Guidelines: Structuring Discretion* 2-3 (October 1976) and L.P. Sutton, *Variations in Federal Criminal Sentences* 5-6, 49 (1978).

⁴ W.A. Goldberg, *Adult Probation in the United States*, as of February 1977 (1977) presents information on probation, including data for each state on those offenses barred from probation. For a discussion of mandatory sentencing laws, see Glick, "Mandatory Sentencing: The Politics of the New Criminal Justice," 43 *FEDERAL PROBATION* 3 (March 1979).

⁵ The American Law Institute (ALI), *Model Penal Code* § 7.01(2) (P.O.D. 1962) indicates criteria to be weighed in "favor of withholding sentence of imprisonment." (Hereafter referred to as *Model Penal Code*.) Similarly, the National Advisory Commission on Criminal Justice Standards and Goals established a list of possible criteria (*Corrections* 151 (1973)). (Hereafter referred to as NAC.) Pennsylvania includes criteria for the sentencing judge to consider (Pa. Stat. Ann. tit. 18 § 1322 (Supp. 1979)). Many statutes are vague. For example, Virginia's statute reads: "After a plea, a verdict or a judgment of guilty in any court having jurisdiction to hear and determine the offense, with which the prisoner at the bar is charged, if there are circumstances in mitigation of the offense, or if it appears compatible with the public interest, the court may suspend the execution of sentence . . ." (Va. Code Ann. § 53-272 (Supp. 1977)).

⁶ The National Council on Crime and Delinquency collects statistics on probation from the voluntary submissions of the states through the "Uniform Parole Reports." The National Prisoner Statistics Program (now part of the Law Enforcement Assistance Administration) regularly collects statistics on capital punishment and prisoners in State and Federal institutions.

⁷ Noting the lack of national statistics, a General Accounting Office study of four probation departments found that 77 percent of those sentenced received probation. Comptroller General of the United States, *State and County Probation: System in Crisis* 6-7 (1974). The Federal courts sentenced 39 percent of the defendants in fiscal year 1977 to probation; 47 percent received incarceration; and 14 percent received other types of sentences. Administrative Office of the United States Courts, *1977 Annual Report of the Director* A-56 (preliminary report, 1977). Only recently has there been available statistics on how many people are under probation or parole supervision. See U.S. Department of Justice, Law Enforcement Assistance Administration, *State and Local Probation and Parole Systems* (1978).

⁸ NAC, *supra* note 5, at 159, 312. Some states are now setting probation out as a sentencing alternative, not merely a suspension of a sentence to incarceration. See Pa. Stat. Ann. tit. 18 § 1321 (Supp. 1979); N.D. Cent. Code § 12.1-32-02(1)(b) (1976).

⁹ Discussions of parole can be found in the following: American Friends Service Committee, *Struggle for Justice* (1971); N. Morris, *The Future of Imprisonment* (1974); A. von Hirsch, *Doing Justice* (1974); A. von Hirsch and K. Hanrahan, *The Question of Parole* (1979); and many other treatises on sentencing.

¹⁰ The Twentieth Century Fund Task Force on Criminal Sentencing recommends an increase in the use of incarceration, but does not advocate abolishing probation, *Fair and Certain Punishment* 32 (1976). (Hereafter referred to as Twentieth Century Fund.) The American Bar Association recently reiterated its 1968 preference for non-incarcerative dispositions and discusses a number of justifications for probation, *Sentencing Alternatives and Procedures* § 18-2.3, commentary (Approved draft, 1979). (Hereafter referred to as ABA.)

¹¹ D. Newman, *Introduction to Criminal Justice* 256-257 (1978).

¹² Federal Bureau of Prisons, *National Prisoner Statistics: State Prisoners, Admissions and Releases*, 1976 45, 47-81 (1971); U.S. Department of Justice, Law Enforcement Assistance Administration, *Survey of Inmates of State Correctional Facilities* 1975, *Advance Report* 21 (1976); U.S. Department of Justice, Law Enforcement Assistance Administration, *Census of Prisoners in State Correctional Facilities* 1975 (1977).

* The author wishes to thank Lenard Cohen for assisting her in updating this article. Portions of this article were developed while working for the Criminal Justice Research Center, Albany, N.Y., under the LEAA-funded "Utilization of Criminal Justice Statistics Project."

point of eligibility for parole.¹³ The length of supervision may be up to the maximum period for incarceration for the class of offense or up to a specified period for all types of offenses.¹⁴ The length of probation supervision has received considerably less attention by sentencing reformers. Data on the term of probation is generally unavailable at the national level.

Disparity has, in part, propelled sentencing to the agenda for reform.¹⁵ Efforts to revise sentencing structures sometimes emphasize structuring or eliminating discretion with regard to length of confinement.¹⁶ But the decision whether or not to incarcerate is an equally, if not more

important decision. It would be a mistake to study and reform the "in/out" decision or the "how long" decision without considering the various sentencing alternatives that have developed in the 20th century. Most of these recent sentencing alternatives are hybrids of the two major sentencing dispositions—probation and incarceration.¹⁷

The Hybrids

The combination of incarceration and supervision in the community is built into the American indeterminate sentencing scheme. The combination is commonly achieved through the decision to grant parole by the parole board. The parole board has come under increasing attack in the last several years.¹⁸ The indeterminate sentencing structure was premised on the theory of rehabilitation. The principle of individualization has led to disparity and has not been shown to achieve its promise of rehabilitation.¹⁹ The decision to release, rather than the supervision component, has been more often the target of criticism. The release decision has been abolished in a few states and has been structured through guidelines in the Federal jurisdiction and some states.²⁰

Although there is a movement to structure judicial discretion (and even eliminate discretion in some instances),²¹ there is also a trend toward expanding the alternatives available to the judge at sentencing.²² The concept of flexibility is competing with structuring or eliminating judicial discretion. There is tension between the desire to maintain flexibility and individualization and the desire to reduce disparity and assure community protection. In order to expand the dichotomous choice (probation or incarceration) of judges and for a number of other reasons legislatures have authorized judges to combine incarceration and probation in a number of ways.

The reasons behind the passage of these sentencing options are numerous.²³ A common element of these hybrids is that they allow judges the option of sentencing the offender to a short period of confinement to "shock" the offender and to a period of supervision in the community.²⁴ Another factor in the legislative movement for these dispositions is that the statutory provisions merely represent a formalization of a number of informal practices in the various jurisdictions. For example, adding jail to the list of optional conditions of probation may formalize a procedure that was already being used by judges to ac-

¹³ D. Gottfredson, M.G. Neithercutt, J. Nuffield, and V. O'Leary, *Four Thousand Lifetimes: A Study of Time Served and Parole Outcomes* 2-5 (1973).

¹⁴ See Goldberg, *supra* note 4, NAC, *supra* note 5, at 153-159.

¹⁵ NAC, *supra* note 5, at 146-147; A. Partridge and Eldridge, *The Second Circuit Sentencing Study: A Report to the Judges of the Second Circuit* (1974); Serrill, "Determinate Sentencing: History, Theory, Debate," 3 *Corr. Mag.* 3 (Sept. 1977); Wilkins, et al., *supra* note 3, at 1-3.

¹⁶ For example, the California presumptive sentencing law that curtails judicial authority on the length of sentence does not interfere with judicial discretion to sentence to probation. Messinger and Johnson, "California Determinate Sentencing Statute: History and Issues" in *Determinate Sentencing: Reform or Regression* 32 (1978). Von Hirsch does not offer any guidance on how probation might be used in his presumptive sentencing model. Von Hirsch, *supra* note 9, at 122-123, 132-139 (1976). Wilkins et al. (*supra* note 3, at 109, n.1) note the attention directed toward length of confinement. See Lagoy, Hussey, and Kramer, "A Comparative Assessment of Determinate Sentencing in Four Pioneer States," 24 *Crime and Del.* 398, 400 (1978).

¹⁷ The derivation of these hybrids from incarceration and/or probation has been discussed and analyzed in regard to the Federal split sentence in Parisi, *The Split Sentence in the Federal Jurisdiction: An Analysis of the Conceptual Framework and Analysis of the Use of the Split Sentence in the Federal Jurisdiction* (Criminal Justice Research Center Working Papers 1978). Bohlander discusses the type of offenders receiving shock probation in Ohio and labels them as closer in characteristics to probationers than incarcerated offenders. *Shock Probation: The Use and Effectiveness of an Early Release Program as a Sentencing Alternative* (Ph.D. dissertation, The Ohio State University, 1973). The use of jail as a condition of probation to reduce incarceration in state facilities has been studied in S. Adams and R. Nauloch, *Some Factors in the Use of Jail as a Condition of Probation* (California Youth Authority 1959). M. Smiley, *Utilization of the Split Sentence and Shock Probation as Sentencing Alternatives and Implications for Their Expanded Use in Georgia* (Georgia Department of Offender Rehabilitation 1977) reports that District Courts in Georgia use the split sentence as an "alternative to longer periods of incarceration and not as an alternative to probation" (at v. 63). Faine and Bohlander conclude that Kentucky shock probationers have characteristics more comparable to regular probationers than incarcerated offenders. *Shock Probation: The Kentucky Experience* xviii (Western Kentucky University, revised edition 1979).

¹⁸ *Supra* note 9. See also, Lagoy, Hussey, and Kramer, *supra* note 16, at 385-387.

¹⁹ *Id.*

²⁰ See generally D. Gottfredson, L. Wilkins, and P. Hoffman, *Guidelines for Parole and Sentencing* (1978), especially chapter 2; V. O'Leary and K. Hanrahan, *Parole Systems in the United States* 3-4 (3rd ed. 1976); and L. Travis and V. O'Leary, *Changes in Sentencing and Parole Decision Making 1926-78* (NCCD 1979).

²¹ Von Hirsch, *supra* note 9; American Friends Service Committee, *supra* note 9; Twentieth Century Fund, *supra* note 10; Wilkins et al., *supra* note 3.

²² NAC, *supra* note 5, at 15-153; J. Behn, K. Carlson, and R. Rosenblum, *Sentencing to Community Service* 1-3 (1977); ABA, *supra* note 10, § 18-2.1, 18-2.4.

²³ The aims of the combination of incarceration and probation include the following: an early release mechanism; short, fixed sentence; specific or general deterrence; a parole mechanism for short-term offenders; control over the decisionmaking power by the judiciary; economy; reduction of State prison population; and guidance and supervision. See Parisi, *supra* note 17; Denton, Pettibone, and Walker, "Shock Probation: A Proven Program of Early Release from Institutional Confinement" (Ohio Adult Parole Authority, n.d.); H. Angelino, R. Fuller, J. Kishon, J. Waldron, and J. Zimbeck, *Study of the Effectiveness of Shock Probation—Final Report* (The Ohio State University, n.d.); ABA, *supra* note 10, § 18-2.4, commentary; Federal Judicial Center, *An Introduction to the Federal Probation System* 936-040 (1976).

²⁴ Articles on these sentences often discuss "shocking" or "jolting" the offender. A "taste of the bars" is often associated with the combination sentences. See, for example, the recent article by Potter, "Shock Probation: A Little Taste of Prison," 3 *Corr. Mag.* 40 (Dec. 1977).

compish the combination.²⁵ In this discussion, the focus will be on describing and distinguishing the various judicial alternatives that combine incarceration and probation.

Distinctions need to be made among the following sentencing alternatives: split sentences, mixed sentences, shock probation, intermittent confinement,

and jail as a condition of probation. Not all of these options are available in each state. A few states have expressly authorized more than one of the options.²⁶ Although criticism of the combinations often treats these alternatives as identical, there are distinctions that should be made.²⁷ For example, the time of the decision differs: a split sentence occurs at sentencing, while shock probation is granted after incarceration has occurred. The common element among these alternatives is that the judge has the power to combine incarceration and probation.

A Brief History of Judicial "Combinations"

In the 1920's, the California legislature, even before some states had authorized probation, passed a bill permitting the judicial combination of incarceration and probation.²⁸ In the next 50 years, two other statutory provisions were to make an impact on the development of judicial "combination." The Federal split sentence provision, passed in 1958, combined incarceration (with a maximum of 6 months) and probation.²⁹ The third major point in the history of legislative provisions was the 1965 Ohio "shock" probation statute.³⁰

These three combinations of incarceration and probation are different. The California scheme attaches jail as a condition of probation (the maximum is now 1 year in jail).³¹ The Federal format suspends part of the sentence to incarceration (leaving up to 6 months unsuspended) and adds probation to the unsuspended portion of the sentence.³² Finally, the "shock probation" statute of Ohio permits a judge to resentence an offender within 130 days and release the offender on probation.³³ These three alternatives will be described in detail below, but represent the key legislative provisions in the history of the judicial combinations of incarceration and probation.

By the 1970's, most States had authorized the combination of incarceration and probation through one of those three alternatives.³⁴ The focus of legislative activity is now on intermittent confinement. Partial or intermittent confinement³⁵ has sometimes been accomplished through the judicial combinations just briefly described. And like the history of the combinations, legislatures are moving to expressly authorize partial confinement as a separate, legitimate alternative in the sentencing structure.

In the course of this development of judicial combinations there has been debate over the ad-

²⁵ In *People v. Robinson*, 253 Mich. 507, 235 N.W. 236 (1931), the Michigan Supreme Court prohibited jail as a condition of probation. However, Michigan amended its probation statute to authorize what had been done informally. Mich. Comp. Laws Ann. § 771.3 (1978). Louisiana recently codified this informal judicial practice. See La. Stat. Ann. C.Cr.P. art. 895, commentary (Cum. Supp. 1979). The Ohio shock probation law was enacted in part to formalize vacating the sentence. See Bohlander, *supra* note 17, at ii-iii, 25-26, 102, Smiley, *supra* note 17, at 46-47, makes the same point. Also see the discussion in *People v. Ledford*, 477 P.2d 374 (1970) concerning a Colorado judge who ordered Ledford to serve 90 days in jail as a condition of probation. Without explicit statutory authorization, jail as a condition of probation was recently struck down in Maryland as antithetical to the concept of probation. See *Stane v. State*, Md. Ct. Spec. App. 9/10/79, 26 Cr.L. 2063 (1979).

²⁶ For example, Ky. Rev. Stat. § 439.265, 533.030 (Cum. Supp. 1978).
²⁷ NAC, *supra* note 5, at 321 criticizes shock probation and split sentences as one type of sentence. Smiley, *supra* note 17, at iv, lists the different types of dispositions that achieve a combination of incarceration and probation.

²⁸ Cal. Penal Code §§ 19a (West 1970), 1208.1 (West Cum. Supp. 1978).

²⁹ U.S.C.A. 18 § 3651 (Supp. 1978).

³⁰ Ohio Rev. Code Ann. § 2947.061 (Page Supp. 1979).

³¹ *Supra* note 28.

³² *Supra* note 29.

³³ *Supra* note 30.

³⁴ As of January 1980:

Ala. Code Ann. § 15-18-8 (Supp. 1978);
Alaska Stat. § 12.55.080 (1972);
Ark. Rev. Stat. Ann. § 13-901 (1978);
Ark. Stat. Ann. § 41-1204 (1977);
Cal. Penal Code §§ 19a (West 1970), 1203.1 (West Cum. Supp. 1978);
Colo. Rev. Stat. Ann. § 16-11-202 (1978);
Conn. Gen. Stat. Ann. § 53a-28 (Supp. 1978);
Del. Code Ann. tit. 11 § 4204 (1975);
Fla. Stat. Ann. § 948.01 (1979);
Ga. Code Ann. § 27-2709 (1978);
Haw. Rev. Stat. § 706-624 (Supp. 1978);
Idaho Code § 19-2601 (1979);
Ind. Stat. Ann. § 35-7-2-1 (Cum. Supp. 1978);
Iowa Code Ann. § 907.3 (Supp. 1979);
Kan. Stat. Ann. § 21-4603 (Cum. Supp. 1978);
Ky. Rev. Stat. §§ 439.265, 533.030 (Cum. Supp. 1978);
La. Stat. Ann. C.Cr.P. art. 895 (Cum. Supp. 1979);
Me. Rev. Stat. Ann. tit. 17-A § 1203 (1979);
Md. Ann. Code art. 27 § 641A (Cum. Supp. 1979);
Mass. Gen. Laws Ann. ch. 279 § 1A (Supp. 1978);
Mich. Comp. Laws Ann. § 771.3 (1978);
Minn. Code Ann. § 609.135 (Supp. 1979);
Miss. Code § 99-19-25 (1975);
Mo. Ann. Stat. § 549.193 (Supp. 1978);
Mont. Rev. Codes Ann. § 95-230 (Supp. 1977);
Neb. Rev. Stat. § 29-2262 (1975);
Nev. Rev. Stat. § 176.185 (1977);
N.H. Rev. Stat. Ann. § 504.1 (1977);
N.J. Stat. Ann. § 2C:43-2 (1979);
N.M. Stat. Ann. § 31-20-5 (1978);
N.Y. Penal Law § 60.01(2)(d) (McKinney 1979);
N.C. Gen. Stat. §§ 15A-1351, 1344 (1978), § 15A-1343 (Supp. 1979);
N.D. Cent. Code §§ 12.1-32-02, 12.1-32-07 (1979);
Ohio Rev. Code Ann. § 2947.061 (Page Supp. 1979);
Okla. Stat. Ann. tit. 22 § 991a (Supp. 1979);
Ore. Rev. Stat. § 137.540 (1977);
Pa. Stat. Ann. tit. 18 § 1321 (Supp. 1978);
R.I. Gen. Laws Ann. § 12-19-8 (Cum. Supp. 1978);
S.C. Code Ann. § 24-21-410 (1977), § 17-25-100 (Cum. Supp. 1979) court interpretation;
S.D. Codified Laws Ann. § 23A-27-18.1 (1979);
Tenn. Code Ann. § 40-2903 (Supp. 1979);
Tex. Ann.C.C.P. art. 42.12 (1979);
Vt. Stat. Ann. tit. 28 § 205 (Supp. 1979);
Utah Code Ann. § 76-3-201 (1978);
Va. Code Ann. § 53-272 (1978);
Wash. Rev. Code Ann. § 9.95.210 (1978);
W. Va. Code Ann. §§ 62-12-3, 62-12-4 (1979);
Wisc. Stat. Ann. § 973.09 (1979);
Wy. Stat. Ann. § 7-13-30 (1977).

The Maryland Court of Special Appeals recently ruled that imprisonment is not a valid condition of probation. See *Stane v. State*, *supra* note 25. Illinois appears to have prohibited a split sentence in 1972. See Council Commentary in Ill. Ann. Stat. § 1005-6-3 (Smith-Hurd 1974). However, Illinois retained the option of periodic confinement as a condition of probation. See Ill. Ann. Stat. § 1005-7-1 (1978) and *People v. Scheib*, 16 Ill. Dec. 501, 59 Ill. App. 3d 104, 375 N.E.2d 132 (1978).

³⁵ Partial or intermittent confinement usually refers to weekend or nighttime confinement, while the remainder of the offender's time is in the community. Unlike work or study furlough, decisionmaking is in the hands of the judge. See note 79, *infra*.

vantages and disadvantages of these types of dispositions. In the mid-1950's the National Council on Crime and Delinquency opposed the combination of confinement and probation on conceptual grounds. The rationale for opposing the combination was that probation was to be used in lieu of incarceration.³⁶ The President's Commission on Law Enforcement and Administration of Justice and the American Correctional Association opposed the combination in the 1960's.³⁷ The American Law Institute hesitantly supported it in the same period on the ground that release by means of parole is generally unavailable to misdemeanants.³⁸ The American Bar Association included the provision pursuant to its interest in expanding the range of alternatives available at sentencing.³⁹ In the 1970's the National Advisory Commission on Criminal Justice Standards and Goals was very critical of the disposition in any of its forms.⁴⁰ Model sentencing structures and revisions of state sentencing formats in the mid-1970's have generally included the option of judicially combining incarceration and probation.⁴¹

³⁶ National Council on Crime and Delinquency, *Standard Probation and Parole Act* 2, comment (1955).

³⁷ President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections* 34-35, 206 (1967); American Correctional Association, *Manual of Correctional Standards* 99-100 (1966).

³⁸ American Law Institute, *Model Penal Code* §§ 301.1, 6.02(3)(b), comment (P.O.D. 1962).

³⁹ American Bar Association, *Sentencing Alternatives and Procedures* § 2.4 (Approved draft, 1968). See also, ABA, *supra* note 10.

⁴⁰ NAC, *supra* note 5, at 321.

⁴¹ National Conference of Commissioners on Uniform State Laws, *Uniform Corrections Code* §§ 3-200(b)(3), 3-502 (Tent. draft, 1976); O'Donnell, Churris, and Curtis, *Toward a Just and Effective Sentencing System* § 2103(b)(11) (1977); National Commission on Reform of Federal Criminal Laws (the Brown Commission) included the split sentence in each of its Federal sentencing proposals, *Working Papers*, Vol. II (1970) *Study Draft* (1970); and *Final Draft* (1971). The Federal bills recodifying the Federal criminal code authorized the split sentence. See S.1, 93rd Cong., 1st sess. (1973); S.1 and H.R. 3507, 94th Cong., 1st sess. (1975); S. 1437, 95th Cong., 2d sess. (1978); S. 1722, 96th Congress, 1st sess. (January 17, 1980, reported with amendments out of Committee on the Judiciary). Only one bill, S. 1409, 93rd Cong., 1st sess. (1973) did not include a split sentence type of provision.

⁴² *Frank v. Kelly*, 302 U.S. 312, 315 (1937); Note, "Application of Federal Probation to Convicts Serving Consecutive Sentences," 64 *Yale L.J.* 260, 264 (1954); *Affronti v. United States*, 350 U.S. 79 (1955); *United States ex rel Spellman v. Murphy*, 217 F.2d 247 (7th Cir. 1954).

⁴³ See, for example, Chandler, "The Future of Federal Probation," 14 *FEDERAL PROBATION* 41, 44 (June 1950).

⁴⁴ *Cong. Rec.*, Vol. 104, Pt. 6, 8090 (May 5, 1958); *Hearings on H.R. 6218 and H.R. 7269 before Subcommittee No. 2 of the Judiciary, House of Representatives*, 85th Cong., 2d sess. 2 (1958). (Hereinafter referred to as *Hearings*.)

⁴⁵ Herlands, "When and How Should a Sentencing Judge Use Probation," 35 *F.R.D.* 487, 503-504 (1964); Administrative Office of the United States Courts, *Federal Offenders in the United States District Courts* 1971-74 (1973).

⁴⁶ Buhlander, *supra* note 17, at 81.
⁴⁷ This was the opinion of several Federal judges who were interviewed in 1976 as part of a larger study of the Federal split sentence. See Parisi, *supra* note 17.

⁴⁸ In tabulating sentence length, it is common to just list the most serious type of sentence or the longest term of incarceration. Thus, the figures on mixed sentences are difficult to obtain unless the statistics unit collects the sentencing information on each count or each indictment.

⁴⁹ In the Federal jurisdiction, the Administrative Office of the United States Courts (hereinafter referred to as AO) does not distinguish mixed sentences from split sentences in its published statistics on sentencing. In a 1968 report, the AO noted that approximately 2 percent of all persons received for supervision in fiscal year 1968 has received mixed sentences. *Persons Under Supervision of the Federal Probation System* 1968 16 (1970).

⁵⁰ *Supra* note 47.

⁵¹ S. 1722 § 2101(a)(3), *supra* note 41; S. 1437 § 2101(a)(3), *supra* note 41. The *Model Penal Code* also seems to prohibit mixed sentences. See § 6.02(3)(d), but also see § 6.02(3)(b), which authorizes confinement as an optional condition of probation.

In the following sections, the various types of judicial combinations will be examined. The focus will be on dispositions combining incarceration and probation that are available *at sentencing* (mixed sentences, split sentences, partial confinement, and jail as a condition of probation) and those that are available *after sentencing* (resentencing, including provisions such as shock probation and bench (judicial) parole).

Mixed Sentences

Judges generally have the authority to sentence an offender to incarceration on one or more offenses and to probation on one or more offenses if the offender has been convicted on multiple counts or multiple indictments. The offender must be eligible to receive probation in order to receive a mixed sentence. The decision is usually made at sentencing, before the beginning of the sentence.

There is very little information on the history or use of mixed sentences in state courts. In the Federal jurisdiction, the power of Federal judges to impose mixed sentences has been upheld.⁴² Comments on the Federal mixed sentence prior to the introduction of the Federal split sentence were sometimes vehemently negative.⁴³ Nevertheless, the existence of the mixed sentence was, in part, responsible for the creation of the Federal split sentence. Federal judges wanted the equivalent authority to combine incarceration and probation in one-count situations.⁴⁴

There are certain aspects of mixed sentences that make this alternative problematic. First, mixed sentences can only be imposed in situations involving convictions of two or more offenses. Second, the offender may be released on parole prior to probation, thus frustrating the assumed plan of the judge.⁴⁵ Third, some jurisdictions have mandatory minimums that curtail judicial flexibility in imposing mixed sentences.⁴⁶ Fourth, if the conviction of the offender is reversed on the offense that carried incarceration, the plan of the sentence is negated.⁴⁷

The extent of use of mixed sentences is unknown.⁴⁸ In the Federal court it is used relatively infrequently.⁴⁹ However, the use of mixed sentences might increase if other forms of combining incarceration and probation were not available to judges.⁵⁰ It is interesting to note that both S. 1437 (1978) and S. 1722 (1980), proposals to modify the Federal criminal code, expressly preclude mixed sentences.⁵¹

Mixed sentences have been used to give the offender a taste of jail⁵² and to retain judicial control over the offender. Today, with the availability of other options, an offender may receive a mixed sentence that includes a rather lengthy period of incarceration for different reasons. For example, the sentence may be given to a more serious type of offender than those receiving other forms of the combination of confinement and probation. In this situation, the mixed sentence is not being used to give the offender a "taste of prison." In most sentencing structures, the offender will be paroled before reaching the probation part of the sentence.⁵³ Probation following parole may result in an extremely lengthy, and needless, period of supervision. Reform of sentencing structures should include consideration of this judicial alternative because it is one of the broadest available to judges at sentencing.

Split Sentences

The "split sentence" has been used as the generic term for any combination of incarceration and probation. It is, however, most often attached to the Federal form of combining incarceration and probation. In this section, split sentences refer to those dispositions that are phrased in the following manner: (1) the suspension of part of the sentence to confinement, which often occurs within the statute authorizing probation,⁵⁴ or (2) the combination of incarceration and probation as a separate sentence.⁵⁵

A number of sentencing structures provide for a suspension of the execution of sentence to imprisonment "in part" or "partially" or "for a period up to X days or months." These provisions are frequently found in the authorization for probation.⁵⁶ This means that the criteria for probation eligibility applies to eligibility for the

split sentence. For example, the Massachusetts statute states that "the court may direct that the execution of the sentence, or any part thereof, be suspended, and that he (the offender) be placed on probation"⁵⁷ The Federal provision permitting a judge to combine incarceration and probation is in the split sentence format:

(I)f the maximum punishment provided for such offense is more than six months, any court . . . may impose a sentence in excess of six months and provide that the defendant be confined in a jail-type institution or a treatment institution for a period not exceeding six months and the execution of the remainder of the sentence be suspended and the defendant placed on probation ⁵⁸

The statutes suspending the sentence "in part" often do not specify the maximum period of incarceration (under the split sentence) in the statute.⁵⁹ The term of incarceration is usually set at sentencing and is fixed (subject to whatever good time provisions may apply).⁶⁰

The combination of incarceration and probation as a separate sentence has been included in a number of jurisdictions. Maine includes this authorization for the split sentence:

(T)he court may sentence a person to a term of imprisonment not to exceed the maximum term authorized for the crime, an initial portion of which shall be served and the remainder of which shall be suspended.

If . . . the court requires the person placed on probation to be imprisoned in the State Prison for the initial period of probation, it shall fix such period of imprisonment not to exceed 90 days.⁶¹

Delaware also provides for the split sentence as a distinct sentence.⁶²

The rationale behind this sentence is often characterized as "shocking" or "jolting" the offender by the experience of incarceration. This can be interpreted as an effort to deter the offender from committing the offense again, or as a means to indicate that the offense was serious. The commentary attached to these types of statutes often anticipates an experience that the offender will not forget and that will not depreciate the nature of the crime. For example, Maine's commentary notes that "such an experience is what is needed to bring home to the offender the consequences of law violation."⁶³

Jail as a Condition of Probation

Many of the recent proposals to revise the Federal criminal code have modified the sentencing format of combining incarceration and probation. As mentioned before, the Federal pro-

⁵² Chandler, *supra* note 43, at 44.

⁵³ *Supra* note 45.

⁵⁴ See, for example, U.S.C.A. 18 § 3651 (Supp. 1978).

⁵⁵ See, for example, Me. Rev. Stat. Ann. tit. 17-A § 1203 (1979).

⁵⁶ *Supra* note 54.

⁵⁷ Mass. Gen. Laws Ann. ch. 279 § 1.1a (Supp. 1978).

⁵⁸ *Supra* note 54.

⁵⁹ When the statutes are phrased in terms of suspending a sentencing "in part" without any restrictions, it can be assumed that the unsuspended portion could be up to the maximum period of confinement set by law.

⁶⁰ The incarceration part of the split sentence is usually for a fixed period of time. Some provisions may allow for good time to reduce the period of confinement. In the Federal jurisdiction, the good time provision (U.S.C.A. 18 § 4161) is applicable if the sentence to incarceration on the split sentence is for 6 months. *Abrams v. Goodwyn*, 186 F.Supp. 271 (N.Fla. 1960); Federal Bureau of Prisons, Manual Bulletin No. 484, Supplement No. 2 (October 18, 1960).

⁶¹ Me. Rev. Stat. Ann. tit. 17-A § 1203 (1979).

⁶² Del. Code Ann. tit. 11 § 4204(c) (1975). New York's statute is also a separate option: N.Y. Penal Law § 60.01(2) (d) (McKinney 1979).

⁶³ Me. Rev. Stat. Ann. tit. 17-A § 1203, comment (1979). New York expects its split sentence provision to provide a "taste of jail" and to provide a "significant effect in deterring (the offender) from future criminal conduct." *id.*, comment.

vision is currently labelled a split sentence scheme, but the various proposals to restructure the sentencing format usually have provided *jail as an optional condition of probation*.⁶⁴ A number of these proposals have increased the maximum from 6 months under the current split sentence to 1 year under the proposed optional condition of probation. Although this form for combining incarceration and probation would be new for Federal judges, California judges have had this option for over 50 years.⁶⁵

Some of the criticism of the "combinations" concentrates on the conceptual anomalies of combining incarceration and probation, especially in this manner. Probation historically was used to avoid the harshness of incarceration.⁶⁶ Appending confinement (in whatever form) to probation is a contradiction in terms.⁶⁷ Allowing confinement to be attached as a condition of probation is even more anomalous. As discussed above, the National Council on Crime and Delinquency pointed out this absurdity and opposed this sentence in 1955.⁶⁸ In 1976, in a comprehensive study of the Federal split sentence, Federal judges were asked to comment on changing the split sentence format to an optional condition of probation format.⁶⁹ Some commented:

I don't like the phraseology. Probation is antithetical to jail.

⁶⁴ See the bills listed in note 41, *supra*.

⁶⁵ Cal. Penal Code §§ 19a (West 1970), 1203.1 (West Cum. Supp. 1978). Apparently, the Federal judges who had experience with the California law were supporters of the 1958 Federal bill establishing the split sentence. See *Hearings, supra* note 44, at 5.

⁶⁶ U.S. Department of Justice, *supra* note 2, at 150. See also note 25, *supra*.

⁶⁷ New York notes theoretical quandary in its commentary on the split sentence provision. *Supra* note 63, at 147.

⁶⁸ *Supra* note 36.

⁶⁹ *Supra* note 47. For an analysis of judicial opinions on the split sentence, see Parisi, *supra* note 17.

⁷⁰ Arizona, Arkansas, California, Colorado, Hawaii, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Montana, Nebraska, Nevada, North Carolina, Oregon, South Dakota, Texas, Washington, Wisconsin. See note 34 for citations and comments concerning Illinois. Although Maine does not provide for incarceration as an explicit condition of probation "the court may nonetheless revoke probation for any criminal conduct committed during the initial period of imprisonment." *Supra* note 61.

⁷¹ A maximum of 30 days is specified in the *Model Penal Code* (*supra* note 38). Texas, and Arkansas (for misdemeanants) statutes. A maximum of 60 days is specified in South Dakota and Colorado (for misdemeanants). A maximum of 90 days is specified in Arkansas (for felons), Colorado (for felons) and Montana. Kentucky and Michigan specify a 6-month maximum. Arizona, California, Louisiana, Minnesota, Oregon, and Washington specify 1 year. Hawaii sets a maximum of 6 months for misdemeanants and 1 year for felons. North Carolina specifies a maximum of 6 months or one-fourth the maximum, whichever is less. Indiana, Nebraska, and Wisconsin authorize 60 days, 90 days, and 1 year, respectively, for intermittent confinement. Illinois apparently limits intermittent confinement to 6 months. See comment, *supra* note 34, on Illinois.

⁷² For example, California and Colorado, *supra* note 34.

⁷³ Ark. Stat. Ann. § 41-1204, and commentary (1977).

⁷⁴ President's Commission, *supra* note 37; NAC, *supra* note 5.

⁷⁵ See comment, *supra* note 34, on Illinois.

⁷⁶ NAC, *supra* note 5, at 150; von Hirsch, *supra* note 9, at 119-120; Twentieth Century Fund, *supra* note 10, at 28; May, "Weekend Jail: Doing Time on the Installment Plan," 4 *Corr. Mag.* 28 (March 1978); ABA, *supra* note 10.

⁷⁷ May, *supra* note 76, at 29.

⁷⁸ In regard to the New York split sentence provision, the commentary states: "If this split sentence option is extensively employed by the courts it could put considerable population pressure on local jails and create administrative problems in these local correctional facilities that they might find difficult to cope with effectively." N.Y. Penal Law § 60.01(2)(d), commentary at 147 (McKinney 1975).

Jail is not part of probation. It is incongruous. Probation should be a way out, not a way in.

Jail as optional condition of probation does not make sense. Jail and probation are different things.

In a January 1980 survey of legislative provisions, a little less than one-half the states were found to include jail as an optional condition of probation.⁷⁰ Most states limit the maximum period of confinement to 30, 60, 90 days, 6 months, or 1 year to ensure a brief experience.⁷¹ The place of confinement is often required to be a local facility, like a jail.⁷² The Arkansas provision exemplifies this type of judicial combination whose purpose is to give the "offender a taste of imprisonment":

If the court suspends the imposition of sentence on the defendant or places him on probation, it may require as an additional condition of its order, that defendant serve a period of confinement in the county jail, city jail, or other authorized local detentional, correctional, or rehabilitative facility

The period actually spent in confinement . . . shall not exceed ninety (90) days in the case of a felony, or thirty (30) days, in the case of a misdemeanor ⁷³

The split sentence and jail as a condition of probation have been criticized by the National Advisory Commission on Criminal Justice Standards and Goals and the President's Commission on Law Enforcement and Administration of Justice.⁷⁴ Nevertheless, there is no indication that legislatures have or will consider repealing these provisions.⁷⁵

Intermittent Confinement

Sentences to intermittent confinement have received widespread support.⁷⁶ These sentences seem to combine the advantages of the split sentence and jail as a condition of probation (for example, the "taste of the bars") plus the advantages of sentences involving no confinement (for example, maintenance of community ties). Intermittent or partial confinement can take the form of weekend, nighttime, or vacation confinement, with probation during the time spent in the community.

The extent of use of these types of sentences is unknown.⁷⁷ A major determinant of their use may be the availability of cells for limited and irregular confinement.⁷⁸ Even though the logistics of offenders frequently leaving and returning to confinement is a major administrative problem, there appear to be mainly favorable impressions of this disposition. No empirical studies have emerged to support this acclaimed disposition.

Intermittent confinement is expressly authorized in 30 states.⁷⁹ These provisions are included under the split sentence authority, or under the conditions of probation, or under the sentencing alternatives as a separate disposition. In those jurisdictions without explicit statutory authorization, judges rely on a split sentence statute or their discretion to impose conditions of probation. For example, Federal judges continue to impose intermittent confinement under these options, despite dubious authority.⁸⁰

The purposes of this disposition are often specified in the statutory provision, unlike other combinations of incarceration and probation. Partial confinement is intended frequently to allow the offender to be employed or go to school. The emphasis in many of the statutes is on activities associated with rehabilitation. The commentary in two states suggests that this disposition might give the offender a "taste of the bars."⁸¹ The American Bar Association refers to intermittent confinement as "shock therapy."⁸² Thus, a sentence to intermittent confinement, like other forms of judicial combinations of incarceration and probation, may be used to achieve deterrence of the offender or retribution.

The American Bar Association clearly provides for probation supervision during the periods of nonconfinement.⁸³ Supervision, with the condition of reporting at a specified time to the facility, offers a definite method for dealing with absences. However, in some jurisdictions, failure to report is labelled an "escape," or "contempt of court."⁸⁴

There are two time periods that need to be specified in granting this sentence. The length of

each interval of confinement (for example, weekend means Friday night to Monday morning) and the maximum duration of the sentence (for example, 2 years during which all weekends will be spent in confinement) have to be made clear. Of all the combination sentences, this sentence brings the most confusion and practical difficulties for jail administration and the probation department. Because this disposition appeals to advocates of widely different sentencing philosophies, it continues to have a role in different types of sentencing structures. The proportion of offenders receiving this disposition may be small, but the impact of these offenders on correctional agencies requires analysis of this disposition. Compared with other forms of combinations, this disposition has not received much attention by researchers.

Modification of Sentence

The oldest way to permit a judge to change a sentence of incarceration to supervision in the community has been the judicial prerogative to change a sentence during the term of the court.⁸⁵ For example, Pennsylvania courts have recognized an inherent judicial power to vacate sentence within 30 days of imposition, which could mean resentencing the person to probation within 30 days of incarceration.⁸⁶ The Federal courts, through Rule 35 of the Federal Rules of Criminal Procedure, have the power to modify a sentence of incarceration within 120 days after the sentence was imposed. This rule was recently amended to specifically permit reduction of a sentence of incarceration to probation.⁸⁷ In some states judges have statutory power to change a sentence.⁸⁸ For example, the Alaska probation statute states that

upon entering a judgment of conviction of a crime, or at any time within 60 days from the date of entry of that judgment of conviction, a court . . . may suspend imposition or execution or balance of the sentence or a portion thereof, and place the defendant on probation ⁸⁹

Modification of sentence, with or without legislative approval, is often based on a "plea for leniency" or on new information.⁹⁰ Use of this procedure to shock the offender by deciding to release him or her after beginning a sentence to incarceration is not really authorized. Figures on the use of modification of sentence are generally not available. Comments from Federal and State sources agree that it is not used very often in this manner. However, there is a relatively new statutory alternative, virtually identical to this

⁷⁹ Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. For a discussion of the statutory provisions on intermittent confinement, see Parisi, "Part-time Imprisonment: The Legal and Practical Issues of Periodic Confinement," *Judicature* (forthcoming, March).

⁸⁰ For example, the Federal jurisdiction does not expressly authorize intermittent confinement. The split sentence provision and confinement as a condition of probation have been used to achieve partial confinement. For a discussion of these two alternatives, see Reid and Kutcher, "Probation and Weekend Jail Time: Some Legal Musings," 41 *FEDERAL PROBATION* 47-48 (September 1977).

⁸¹ N.C. Gen. Stat. § 15A-1351 (1977); Ark. Stat. Ann. § 41-1204 (1977).

⁸² ABA, *supra* note 10, at 31.

⁸³ ABA, *supra* note 10.

⁸⁴ In Florida, Maryland (Queen Anne's County), New Hampshire, Tennessee, and Virginia, a failure to report is labelled an "escape."

⁸⁵ Minnesota categorizes a failure to report as "contempt of court." *United States v. Benz*, 282 U.S. 305 (1931); Bohlander, *supra* note 17, at ii-iii, 25-26, 102; Bullock, "Criminal Law-Split Sentence-Trial Judge in North Carolina Not Permitted to Impose Sentence Active in Part and Suspended in Part," 40 *N.Car.L.Rev.* 333-340 (1962). See also Smiley, *supra* note 17, at 51-53, who discusses this issue.

⁸⁶ M. Belsky, *Handbook for Trial Judges* VIII-34, n. 157 (Citizen's Crime Commission of Philadelphia, 1975); J. Packel, *Sentencing in Philadelphia II-14*, pt. 29 (Defender Association of Philadelphia, 1975).

⁸⁷ Rule 35, F.R.Cr.P. (effective August 1979).

⁸⁸ See, for example, California, Cal. Penal Code § 1170(d)(f) (West Cum. Supp. 1979); and Maine, Me. Rev. Stat. Ann. 17-A § 1154 (Supp. 1979).

⁸⁹ Alaska Stat. § 12.55.080 (1972).

⁹⁰ *Wright's Federal Practice and Procedure* § 586 (1969).

procedure, which does have the purpose of shocking the offender—the so-called “shock probation” statutes.

Shock Probation

In 1965, Ohio formalized a procedure for vacating sentences of incarceration and resentencing offenders to probation by passing the “shock probation” statute.⁹¹ This law permitted judges to resentence offenders who had received a sentence to incarceration to a sentence of probation. Through a 1969 amendment, the maximum period of incarceration under this option was limited to 130 days. Unlike split sentences and jail as a condition of probation, the Ohio shock probation statute (1) specified confinement in a State correctional facility, and (2) required that the decision to combine incarceration and probation be made *after* beginning service of the sentence.⁹² Following Ohio's lead, Idaho, Indiana, Kentucky, Tennessee, and Texas enacted similar statutes.⁹³

The use of the disposition in Ohio is not infrequent,⁹⁴ but it remains to be seen whether the other states that do not have the same sentencing structure as Ohio will use it to the same extent.⁹⁵ It does not appear that this form of judicial combination of incarceration and probation is gaining support.

Despite support for continuing judicial control over sentences,⁹⁶ shock probation statutes include several characteristics that may make them more subject to criticism than other forms of judicial combinations of incarceration and probation. First, shock probation has the element of un-

certainty whereby most offenders do not know if they will be released. One of the attacks on parole is that an offender suffers the anxiety of not knowing when he or she will be released.⁹⁷ This provision has the same feature. Second, shock probation may interfere with the parole board's authority to parole.⁹⁸ One of the reasons that the time period for the judicial release decision is so limited is because it will not then interfere with parole board release decisions. It has been argued that probation should be available to short-termers who do not have the opportunity for parole.⁹⁹ But it does not necessarily follow that there should be an expansion of judicial release power after the offender has begun to serve his or her sentence. There could be an expansion of parole board release power to those with short terms.

Diagnostic Study Followed by Probation

A diagnostic study is available in a number of jurisdictions (for example, Federal, California, Kansas, North Dakota, and Pennsylvania) to obtain further information on the offender prior to sentencing.¹⁰⁰ The Kansas provision states:

If the offender is sent to the Kansas state reception and diagnostic center or the state security hospital for a presentence investigation under this section, the institution may keep the offender confined for a maximum of one hundred twenty (120) days or until the court calls for the return of the offender. The Kansas state reception and diagnostic center or the state security hospital shall compile a complete mental and physical evaluation ¹⁰¹

A diagnostic study permits the judge to confine an offender for a limited period of time before sentencing the offender to any of the original options. If one of the original options was probation, the judge may then sentence the offender (who has undergone a limited period of confinement) to probation. The number of offenders who receive this type of judicial combination of incarceration and probation is probably small.¹⁰²

This procedure can be used as a form of resending to “shock” the offender, but that is clearly frowned upon.¹⁰³ It is considered a waste of valuable resources because the diagnostic study is usually intended to acquire a more detailed physical and psychological report than could be developed in the community through the regular presentence report.¹⁰⁴ Like shock probation, this alternative has the element of uncertainty. This could be translated into coercion for obtaining

⁹¹ Ohio Rev. Code Ann. § 2947.061 (Page Supp. 1979).

⁹² Bohlander, *supra* note 17, at 20.

⁹³ For citations, see note 34, *supra*.

⁹⁴ Potter reports these statistics for 1975: of the approximately 20,000 sentences for felons, 45 percent received probation, 57 received State prison sentences, 7.5 percent received shock probation, and 11 percent received other sentences. Potter, *supra* note 24, at 51.

⁹⁵ Ohio's sentencing structure included mandatory minimums that could be circumvented through shock probation. See Bohlander, *supra* note 17, at 81-82.

⁹⁶ NAC, *supra* note 5, at 173-174.

⁹⁷ See generally, note 9, *supra*. See also, Singer, “In Favor of ‘Presumptive Sentences’ Set by a Sentencing Commission,” 24 *Crime and Del.* 401, 426 (1978).

⁹⁸ Although shock probation statutes generally do not interfere with parole eligibility, it is interesting to note that the split sentence combination of incarceration and probation has been criticized as an interference with parole. Correspondence with Judge George W. Marthen, December 19, 1975, in the New York State Law. See the Court's discussion in *Affronti v. United States*, 350 U.S. 79, 81 (1955); S. Rubin, *Law of Criminal Correction* 189 (1962); “Judicial Review of Probation Conditions,” 67 *Col. Law Rev.* 181, 201 (1967).

⁹⁹ Model Penal Code, *supra* note 38.

¹⁰⁰ U.S.C.A. 18 § 4205(c) (Supp. 1978);

Cal. Penal Code § 1203.03(a) (Cum. Supp. 1979);

Kansas Stat. Ann. § 21-4605(1) (Cum. Supp. 1978);

N.D. Cent. Code § 12.1-32-02 (1979);

Pa. Stat. Ann. tit. 19 § 1403(B) (Supp. 1978).

¹⁰¹ *Supra* note 100.

¹⁰² For example, in fiscal year 1974, approximately 218 Federal adult offenders received this combination of incarceration (through the diagnostic study) followed by probation.

¹⁰³ *Supra* note 47. L. Farmer, *Observation and Study: Criteria and Recommendations on Federal Procedures* 4 (1977).

¹⁰⁴ *Supra* note 47. For a description of the Federal procedures, see Farmer, *supra* note 103. Farmer notes several times that the diagnostic study might be used to achieve a “taste of jail” rather than a more detailed physical or psychological report (at 4, 7, 11, 17).

information from a recalcitrant person.¹⁰⁵ When a sentencing structure precludes certain benefits to offenders sentenced under the regular split sentence provision, judges may turn to a diagnostic study to achieve the "shock" of confinement, plus the advantages of a special sentencing alternative.¹⁰⁶

Judicial Parole

Offenders who receive short terms of incarceration in a county facility usually do flat time. However, in a number of jurisdictions even misdemeanants may be released under supervision prior to the end of their sentences.¹⁰⁷ Although the structure varies, judges in some states have the authority to grant parole (sometimes called bench parole).¹⁰⁸ For example, in Pennsylvania, judges have the power to parole persons sentenced to less than 2 years incarceration. Like shock probation and modification of sentence, this procedure contains an element of uncertainty for the offender. Furthermore, arguments can be made about interference with the paroling authority.

The advantage of judicial parole is that the entire sentence rests with one person, the judge. However, many of the criticisms of parole boards can be directed toward judicial parole. Although the benefits of a gradual transition back to the community should not be discounted, the other combinations perhaps better achieve the goals of judicial parole in a more regulated manner.

Conclusion

The combination of incarceration and probation is available to all judges in the United States. The power of the judges may be limited to *before* or *after* beginning service of the sentence of incarceration. As discussed above, the growth of these alternatives is partially due to the desire for flexibility in sentencing. There is also some evidence that the judicial support for these provisions derives, in part, from skepticism about parole boards.¹⁰⁸ Judges not only want a range of choices, but they also want to have confidence that their sentences to incarceration will reflect release points that they expect. In addition to flexibility and skepticism over parole boards, judicial support for these provisions may come from efforts to avoid restrictions in the sentencing structure.

The types of statutory restrictions that judges may wish to avoid include mandatory minimums specifying a longer period of confinement than desired,¹⁰⁹ or parole guidelines that specify a longer period of confinement than the judge wishes to impose;¹¹⁰ or no parole available because of the length of the sentence. In addition to the ostensible goals of deterrence, retribution, or incapacitation,¹¹¹ the use of the combinations then may be based on these considerations: flexibility in sentencing, skepticism toward parole boards, and avoidance of restrictions in the sentencing structure.

The key issue in the discussion of combining incarceration and supervision in the community involves who makes the decision. The combinations discussed allow the *judge* to make the release decision rather than the parole board. The judge sets a definite sentence for split sentences and jail as a condition of probation or makes the decision within a limited period of time for resentencing provisions. In a sentencing scheme built mainly on the indeterminate sentence and parole, these provisions are notable exceptions.

As parole decisionmaking continues to come under attack, the role of these combinations may change. In Maine, where parole has been abolished,¹¹² it will be interesting to see if the split sentence takes its place.¹¹³ California has moved to presumptive sentences without a parole board and there appears to be a decrease in the use of jail as a condition of probation.¹¹⁴ Even if supervision following release from confinement (parole supervision) is eventually seen as needless, it is

¹⁰⁵ For a discussion of the Federal observation and study being used in this manner, see *United States v. Liddy*, 510 F.2d 669, 685 (1974).

¹⁰⁶ For example, the Youth Corrections Act permits setting aside the conviction of a youthful offender sentenced to probation. See U.S.C.A. 18 § 5021(b). It does not allow the same benefit to youthful offenders sentenced to the split sentence. See *Doraszynski v. United States*, 418 U.S. 424, 429-430n. (1974). Therefore, some Federal judges (as reported in interviews in 1976, *supra* note 47) do use the observation and study with probation, combining U.S.C.A. 18 §§ 5010(c) and 5010(a). Thus, the benefits of the Youth Corrections Act and a brief period of incarceration can be combined. For a recent discussion arguing that the split sentence cannot be given to offenders under U.S.C.A. 18 § 5010(a) in terms of *Dural v. United States*, see Kutcher, "YCA and the Supreme Court Decision in *Dural v. United States*," 42 *FEDERAL PROBATION* 58, 59 (June 1978).

¹⁰⁷ For example, Kentucky, Ky. Rev. Stat. § 439.177 (Cum. Supp. 1978); Missouri, Mo. Ann. Stat. § 549.193 (Supp. 1978); Pennsylvania, Pa. Stat. Ann. tit. 61 § 314 (1964).

¹⁰⁸ Tappan, *Crime, Justice and Correction* 549 (1960); Rubin, *supra* note 2, at 188; U.S. Department of Justice, *supra* note 2, at 251.

¹⁰⁹ See note 95, *supra*.

¹¹⁰ A discussion of the use of the Federal split sentence to avoid parole guidelines that have a longer period of incarceration than a judge desires is contained in Note, "Parole Release Decisionmaking and the Sentencing Process," 84 *Yale L.J.* 810, 884 (1975). *United States v. Vanderville*, 396 F.Supp. 1244, 1249. (Conn. 1975), the judge noted that the Federal split sentence could not be used to avoid parole guidelines of 19 months for an offender that the judge wished to serve 12 to 16 months because the maximum on the split sentence was 6 months.

¹¹¹ See note 23, *supra*.

¹¹² Me. Rev. Stat. Ann. tit. 17-A § 1252 (Supp. 1979).

¹¹³ The use of the split sentence in Maine is being studied by F. Hunsey and J. Kramer of Pennsylvania State University to chart the impact of no parole on the split sentence disposition.

¹¹⁴ D. Howard, *Determinate Sentencing in California* 19, 28 (Council of State Governments 1978).

unlikely that supervision at sentencing will suffer

¹¹⁵ All sentencing proposals in the 1970's include probation and no state has proposed mandatory confinement for all offenses. Although there is some discussion about increasing the number of people sentenced to confinement and several new statutes authorizing mandatory incarceration for certain types of offenders, there is no reasonable or feasible way to abolish probation.

the same fate.¹¹⁵ As long as probation and incarceration exist as the predominant options at sentencing, there will be a need for a hybrid sentence in "presumptive sentencing" schemes and judicial sentencing guidelines.

Empirical Data, Tentative Conclusions, and Difficult Questions About Plea Bargaining in Three California Counties

BY RAYMOND L. PARNAS*

PLEA BARGAINING pervades the administration of criminal justice! Thus any sensible substantive change in the penal code must consider its impact on and relationship to the plea negotiation process. However, system participants complain that their critics, many of whom work at other jobs in criminal justice, are uninformed about the realities of the process. Yet little field data describing how guilty pleas are arrived at has been accumulated. There are a myriad of questions which must be answered before sound policy judgments can be made.

Accordingly, minimally modifying procedures developed by Georgetown University Law Center's¹ Institute of Criminal Law and Procedure,² California's Joint Committee for Revision of the Penal Code surveyed three counties³ in the fall of 1978. The goal was to collect recent descriptive data in order to understand plea bargaining in at least the selected jurisdictions and, with guarded generalization, perhaps elsewhere as well. This partial report and preliminary analysis constitutes the first publication of the survey.

Prosecutors, public defenders, judges, probation officers, police officers, and defendants were personally interviewed by law graduates using a structured questionnaire.⁴ Court and chambers observation, case file analyses and simulation techniques were also employed.⁵

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Overview

Preliminary analysis of the data shows a divergence of opinion on many questions. Substantial points of disagreement exist not only between operational departments (police, prosecution, defense, judicial and probation) *within* each jurisdiction, but between actors *within* each operational department as well. The differences range from the absence of any uniform definition of what constitutes plea bargaining and the kinds of bargaining which predominate in any jurisdiction, to quite disparate practices in similar cases by similar decisionmakers.

Assuming the desirability of consistent practices in similar cases within the same jurisdiction, preparation of a current process narrative, like the three from which this summary stems, could perform the extremely important function of

¹ Much has been written on the subject. For a sampling of citations see Parnas and Atkins, *Abolishing Plea Bargaining: A Proposal*, 14 *Criminal Law Bulletin* 101, 102 n.2 (1978).

² As of Jan. 1980, the Institute's final report on plea bargaining in the United States utilizing these methods for indepth field research in six selected cities had not been published. However, no California jurisdiction was included among the six cities. That project was funded by LEAA Grant Number 75-NI-99-0129. An initial report of its preliminary work is available. See Miller, McDonald, and Cramer, *Plea Bargaining in the United States* (1978).

³ Cost and time factors limited the survey to three. Small counties were omitted because of limited personnel and caseload and therefore less validity to generalizations to larger communities. Obviously the reverse may also be applicable. Two large cosmopolitan counties in Northern California, and one medium Southern California county were selected for accessibility, cooperativeness, and some preknowledge.

⁴ Ten prosecutors and ten public defenders were interviewed in each jurisdiction. Three to five each of police officers, probation officers, and defendants were interviewed in each jurisdiction. All superior court judges hearing criminal cases at the time were interviewed. The questionnaires administered to police, probation officers, and defendants were brief; such interviews could be completed in as little as 15 minutes. The other questionnaires were extremely long, sometimes requiring as much as 3 hours each.

⁵ The hard data from the case files had not been analyzed by current committee staff when this report was prepared. Too few plea bargaining simulation games were played to consider in the data. Court and chambers observation notes and forms are included in this analysis. Whether a complete analysis of all of the data and a final official report will ever be done apparently depends upon the political and bureaucratic obstacles inherent to the legislative process of which the author is no longer presently a part.

providing a data base from which to inform all actors within a particular jurisdiction of the process in that jurisdiction from beginning to end. They also could provide the necessary foundation for internal evaluation of policies and practices within and between operational departments.

Population, geography, resource availability, community attitudes and other nonprocess, as well as process, differences between jurisdictions make the necessity of uniform policies and practices from one jurisdiction to another a somewhat more complex question. Again, however, preparation and sharing of current narratives could provide a basis for not only determining the need for cross-jurisdictional consistency but for learning and possible adaptation from the policies and procedures of others.

In addition, interested statewide organizations could use such data to suggest specific policies and practices to their members for their local consideration; or, if they had the requisite authority, they could promulgate rules for general application, or advocate legislation. If the legislature should get involved, either on the initiative of its own members or reviewing measures suggested by others, such data could provide much of the hard facts lacking in the past when bills concerning the plea bargaining process had to be evaluated in a factual vacuum and an emotional atmosphere of diametrically opposed competing claims.

Plea bargaining, loosely defined as the tendering of a guilty plea on the defendant's perception that he will receive some benefit from the state for doing so, is supported by most of those *directly* involved in the *middle* of the criminal process, namely judges, district attorneys, and defense counsel. The agencies at the beginning and ends of the criminal justice process, the police and probation, are the most critical of plea bargaining. Job tasks explain the difference in attitude. Both the police and probation perform essentially the same tasks whether a case goes to trial or not. Clearly the defense, prosecutors and judges do not. If a defendant pleads guilty, the absence of a trial reduces both preparation and court time for all. In fact, the judge's time investment may be extremely nominal; whereas the district attorney and public defender may

have to put in a bit more effort since at least some preparation will be required in most cases from the outset, and this may increase substantially as the trial date nears. Accordingly, analogous to the substantial body of empirical data showing how proximity to end of shift and extent of paperwork significantly affect police decisions to arrest,⁶ judicial, prosecutorial and defense support for plea bargaining can arguably be construed as at least partially colored by wholly personal considerations.

Thus, the police and probation view might be locked at as somewhat more objective although perhaps a bit less knowledgeable because of their more limited involvement. (However, there is some evidence that the very limit on their involvement in the way most cases are disposed of produces a demoralizing "left-out" attitude which may make their views suspect, too.) If plea bargaining is necessary, they say (and many are willing to so admit), it is almost wholly because of limited resources and speculation as to increased trials in the absence of plea bargaining.⁷ Police and probation tend to characterize it as a "necessary evil." The reason they so term it is because of their view that plea bargaining's other primary benefit, in addition to economics, is to the defendant in terms of inappropriately lenient sentences. Perhaps understandably then, police, putting their bodies on the line in the apprehension of criminals, and particularly probation officers, charged with the specific function of recommending sentences on the basis of all available data, in the absence of a vested interest in conserving personal job-related time, have problems with the ultimate result of plea bargaining as they see it.

Despite criticism of a process in which they do not get their "day in court," defendants strongly support plea bargaining because what is paramount to them is getting out of jail or prison as soon as possible. It is not surprising then that public defenders are strong supporters of plea bargaining for sentencing as well as workload reasons, since the defense attitude is normally to pursue the imposition of the least sanctions feasible for one's client. Thus the defendants and public defenders tend to support the police and probation officers' view that a primary benefit of the plea bargaining process is a lesser sentence than if one went to trial. In fact, some public defenders, going outside of

⁶ See, e.g., Skolnick, *Justice Without Trial* (1966).

⁷ See Parnas and Atkins, *supra* note 1 at 109-114; Rubenstein and White, *Plea Bargaining: Can Alaska Live Without It?*, 62 *Judicature* 266 (1979); Erwin, *No Bargaining Policy Increases Court Caseload*, X *The California Defender* 1 (1979).

their role function, candidly admitted that too lenient sentences are a detrimental effect of plea bargaining.

District attorneys also support plea bargaining. However, since they are legally and ethically charged with "doing justice"⁸ and often tend to place primary emphasis on public protection, it is not surprising that they tend to be more critical of plea bargaining than the public defenders, with many of them indicating too lenient dispositions as the problem.

The judges interviewed reflected almost total and uncritical acceptance of the process. Practically, their only concern is with the public's criticism of plea bargaining which they say is mistakenly based on misinformation about the system. In response to direct questioning, they flatly refused to acknowledge the possibility that defendants who go to trial and are convicted are penalized for exercising their constitutional rights

by frequently being more severely sentenced than had they pled.⁹ Yet in question after question concerning their role in plea bargain discussions, they clearly indicated their routine involvement in influencing and authorizing lesser charges or lesser sentence recommendations in exchange for pleas than would have been charged or imposed pursuant to trial.

Assuming there is a difference in sentence, and all admit it (even the judges in their own way), either the person going to trial is given a sentence consciously inappropriate (and higher) to his crime, or the person pleading is so given (and lower), or something occurs by way of a plea to make different sentences appropriate. Assuming, once again, that from any of the traditional goals of the criminal law (incapacitation, retribution, deterrence, punishment, rehabilitation, etc.) that saving time and money is not an appropriate sentencing consideration,¹⁰ is there anything else that could account for the difference?

Some judges mention repentance, remorse and the prompt application of corrective measures as reasons for a more lenient sentence in exchange for a guilty plea. With due respect, it is suggested that common sense, defendants' own answers, and the acceptance of *nolo contendere* and *Alford* pleas¹¹ belay the credibility of such rationales.

Finally, and of singular importance, is the common judicial response that a defendant may get a more severe sentence following trial than upon a plea because, due to the trial, the judge not only has the opportunity to observe the defendant at length and be exposed to all of the witnesses concerning the crimes (and is therefore more aware of the extent of any injuries, for example), but, in addition, other things that might not come out in a presentence report following a plea might be brought to his attention at trial. In other words, the judge has more information after trial than upon plea and such could result in a greater sentence. (A lesser sentence possibility was never mentioned.)

The logical extension of such statements is that there is, or at least may be, insufficient evidence upon which to appropriately sentence upon pleas, but that problem is, or at least could be, solved by trials. Despite the seemingly apparent logic of this conclusion, no judge expressed it as a negation of differential sentencing but

⁸ See Parnas and Atkins, *supra* note 1 at 106-109.

⁹ In the case of *In re Lewallen*, 152 Cal.Rptr. 528 (1979), the defendant was arrested and charged with drunk driving, carrying a concealed firearm, carrying a loaded firearm and possession of a firearm by an ex-felon. The prosecution offered Lewallen a suspended jail term, \$315 fine and 1 year's informal court probation with driving school in exchange for a guilty plea to the drunk driving charge. But Lewallen refused to accept any agreement that did not include dismissal of the weapons charge. Accordingly, he pleaded not guilty to all charges.

After a jury trial Lewallen was found innocent of the weapons charges and guilty of drunk driving. The Probation Department recommended a \$315 fine and 1 year formal probation. The trial judge, however, sentenced him to 3 years' formal probation, 30 days in the county jail to be served on weekends, ordered him to attend drug rehabilitation, alcohol rehabilitation and "drunk driving school" sessions and ordered weapon confiscation and prohibited future weapons. After sentencing Lewallen, the trial judge stated: "I think I want to emphasize there's no reason in having the district attorney attempt to negotiate matters if after the defendant refuses a negotiation he gets the same sentence as if he had accepted the negotiation."

"It is just a waste of time, and what's he got to lose? And as far as I'm concerned, if a defendant wants a jury trial and he's convicted, he's not going to be penalized with that, but on the other hand he's not going to have the consideration he would have had if there was a plea." *Id.* at 530.

On appeal, the California Supreme Court vacated the sentence and remanded the case for resentencing, stating: "A court may not offer any inducement in return for a plea of guilty or *nolo contendere*. It may not treat a defendant more leniently because he foregoes his right to trial or more harshly because he exercises that right . . . Trial courts may not thus chill the exercise of the constitutional right to trial by jury . . . That a defendant pleads not guilty is completely irrelevant at sentencing; if a judge bases a sentence or any aspect thereof, on the fact that such a plea is entered, error has been committed and the sentence cannot stand." *Id.* at 531.

Query whether the Supreme Court would have ruled as they did if the trial judge had imposed exactly the same sentence as he did but had omitted the reasons for the sentence as quoted above? In fact, that is the routine practice in the jurisdictions studied and in jurisdictions across the United States which have been reported on in the literature for years. For example, see Newman, *Conviction* (1966). See notes 9a and 11 *infra* for more of the Lewallen decision.

¹⁰ But see *Corbett v. New Jersey*, 99 S.Ct. 492 (1978). In his dissent in *Lewallen*, *supra* note 9, Mr. Justice Clark quoted *Corbett* extensively including the very pertinent proposition that the system of plea bargaining: "permits a proper amount of leniency in return for pleas, leniency that is denied if one goes to trial. In this sense, the standard of punishment is necessarily different for those who plead and for those who go to trial. For those who plead, that fact itself is a consideration in sentencing, a consideration that is not present when one is found guilty by a jury." Lewallen, *supra* at 500 n.14. The *Corbett* opinion is necessarily replete with similar unique affirmative pronouncements. For a 6-3 majority upheld a New Jersey statutory scheme which mandated life imprisonment for defendants convicted by a jury of first-degree murder but gave the judge discretion to impose less than life if the defendant chose to enter a plea *non vult*.

Despite its direct relevance, the majority opinion in the California case ignored *Corbett* despite Clark's extensive use of it in dissent.

¹¹ *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) in which the court held that a guilty plea knowingly and voluntarily entered was acceptable with a sufficient factual basis despite the defendant's continued maintenance of his innocence in fact.

rather used it solely in support.¹¹ In fact, all judges opposed the presence of the defendant at plea bargain discussions primarily because such was seen as a hindrance to candor. None expressed any benefit in having the defendants present for appropriate sentence considerations, and, in fact, at least one stated that the defendants' demeanor might complicate rather than aid the process.

The data shows that differential sentencing, the appropriateness of sentence, and the adequacy of information on which sentence is based are issues of far greater importance than the concern that innocent persons plead guilty because of plea bargain incentives. That is not to say that the issue of the innocent pleader is not a legitimate concern, but rather that its apparent rarity (based on all nondefendant respondents' knowledge and the public defender's stated practices) makes it of less significance than the differential sentencing which may occur in most cases.¹²

Whether factually innocent or not, the issue remains whether the procedures surrounding what is offered in exchange for a guilty plea and waiver of defense rights comports not only with the current state of the law arguably premised solely on limited resource considerations, but with fundamental notions of fairness both to the individual confronted by the power of the state and to the public's desire for protection of their person and property.¹³ So long as judges of the Supreme Court continue to uphold the constitutionality of plea bargaining,¹⁴ the practical issue is not whether to have it or not, but rather what changes, if any, can make the process more responsive to individual and community interests

while not taxing our limited resources beyond endurance.

Additional Specifics

(1) It has long been reported that those incarcerated and unable to make bail are prone to plead guilty more readily than others in exchange for time served or simply quicker notice of when they can get out. This earlier conclusion is borne out by the answers of defendants and public defenders. The clear inequity of discrimination on the basis of economic status requires intensive consideration of modifications of the bail/OR systems, particularly when viewed in the perspective of its effect on the waiver of the constitutional rights required by a plea.¹⁵

(2) In at least one jurisdiction, the threat of probation revocation proceedings prior to trial on current charges is perceived to be routinely used as an inducement for guilty pleas. Since revocation proceedings, though based on the same charges, tend to require less than a full trial, the relationship between revocation and trial may demand a reversal of their order in the interest of fairness.

(3) Of crucial, and perhaps central, importance to the attainment of guilty pleas under our current process is the mere possibility of being sent to state prison for any felony. In terms of its impact in numbers, the existence of state prison is far more important as a plea bargaining factor than as a place where convicted felons are actually sent. Felonies are routinely reduced to misdemeanors and the most common conditional plea made contains an agreement for no state prison. Accordingly, despite the recent increase in prison sentences in California,¹⁶ it remains the unusual felony case that results in a prison sentence. Either the threat of state prison is being used as an inducement for pleas in cases where state prison would be inappropriate anyway, or the public is not getting the punishment and incapacitation it has directed the prison system to be used for in appropriate cases.

(4) Because of the above-said sentence disparity implications of the multitude of misdemeanor-felony (wobbler) offenses in our penal code, consideration of eliminating this concept or reducing the number and structuring the discretion used in making the choice might well be warranted.

(5) Due to the initiating impact of police and district attorney screening and charging decisions, consideration should be given to standard-

¹¹ Mr. Justice Mosk's opinion for the majority in *Lewallen*, *supra* note 9, is a prime example. Though subject to occasional abuse and frequent criticism, plea bargaining is the accepted practice contributing to the expeditious administration of justice, he said. And: "We emphasize, however, that a trial court's discretion in imposing sentence is in no way limited by the terms of any negotiated plea or sentences offered the defendant by the prosecution Legitimate facts may come to the court's attention either through personal observations of the judge during trial . . . or through the presentence report . . . to induce the court to impose a sentence in excess of any recommended by the prosecution."

Thus it is clear that under appropriate circumstances a defendant may receive a more severe sentence following trial than he would have received had he pleaded guilty; the trial itself may reveal more adverse information about him than was previously known." *Id.* at 532-33.

¹² Dramatic hard data concerning the extent of differential sentencing is expected to be a primary part of the Georgetown report referred to at note 2 *supra*.

¹³ See *Parnas and Atkins*, *supra* note 1.

¹⁴ See, e.g., *Corbitt v. New Jersey*, *supra* note 9a. See also *Santobello v. New York*, 404 U.S. 257, 92 S.Ct. 495, 30 L.Ed. 2d 427 (1971); and *Brady v. United States*, 397 U.S. 742, 90 S.Ct. 1462, 25 L.Ed. 2d 747 (1969).

¹⁵ Effective Jan. 1, 1981, a new law will reduce the bail bondsman's influence and introduce an Illinois-type 10 percent plan to California by which defendants would post 10 percent of their bail with the court and sign an appearance bond. All but 10 percent of the 10 percent posted would be refunded upon appearance at the appointed time. This should help to alleviate the economic discrimination problem; however, the bill was drastically amended to eliminate any applicability to felonies.

¹⁶ Prison commitments increased from 18 percent of all convictions in 1976 to 33 percent in 1978. Judicial Council of California, *Sentencing Practices Quarterly* 1 (June 30, 1978).

ized policies and practices by and between both agencies within and across jurisdictions.

(6) If such policies and practices are left to be formulated internally rather than externally, serious consideration should be given to requiring public hearings before final adoption, and ultimate notice to all should be mandated. Currently, in at least one jurisdiction, there is a split of opinion between public defenders, who must be in a knowledgeable position in order to properly advise their clients, as to whether the district attorney has charging, plea bargaining and internal review policies, to say nothing of their difference of opinion as to what such policies might be. In fact, the district attorneys are not always all that clear of their own requirements or directives.

(7) Whether policies are imposed externally or internally, there must be some mechanism for monitoring and enforcing their use. For example, the California District Attorneys Association's Uniform Charging Manual, is an extremely important beginning in establishing guidelines, but if, as in some jurisdictions, it serves little more than to add another book to the shelves, its worth is *de minimus*. Similarly, internally prepared written policies are counterproductive if practice is more at a variance with the rules than consistent with them as is the case in another jurisdiction. Internal review by senior deputies can work but has the problems of secretiveness, responding to political pressures, allowing exceptions to friends, no review of the reviewer, and drastic revision when the reviewer is changed. Some kind of external annual report or review might well help to control these problems.

(8) Written policies, crime team organization, a set hierarchy of review, and frequent training sessions should all be seriously studied for possible implementation.

(9) Is there any way of controlling those district attorneys who forget their duty is to justice¹⁷ rather than a won-loss record? For example, some district attorneys will greatly improve the plea offer when evidentiary problems arise which make the case difficult or impossible to prove. Other prosecutors view this as ethically improper.

(10) Attention needs to be given to alleviating the incredible contact, communication and attitude gap between police and prosecutors.

(11) Systemwide definition of plea bargaining, sentence bargaining, charge bargaining, and overcharging would make communication about these issues much easier. For example, some take a narrow view that overcharging occurs only when charges are brought about which there is less than the usual belief that they can be proven. Others, however, are of the opinion that overcharging occurs anytime charges are brought which are inconsistent with the reality of the act, the circumstances of the defendant and the appropriate penalty, despite the fact that such charges can be proven.

(12) The Public Defender almost never gets involved in a case until the preliminary arraignment; whereas on occasion a private attorney can resolve the case for this client with the police or prosecutor before that early stage. Should steps be taken to rectify this infrequent but nonetheless, apparent inequity based on economic status?

(13) Can anything be done to change the negative image that public defenders unjustifiably retain in the eyes of many of their clients? The image alone tends to induce pleas because some defendants feel a sense of defeat by virtue of their inability to have "a real attorney."¹⁸

(14) Are there ways of decreasing the public's negative image of plea bargaining in particular and our criminal justice process in general by education?

(15) Both district attorneys and public defenders believe they have enough information on which to make their decisions. The public defender's only real complaint is the need for the rap sheet at the earliest possible time; the prosecutors would like to have notice of alibi witnesses.

(16) Currently most public defenders, district attorneys and judges believe that an active judicial role in plea bargaining is essential to keep the cases moving. Assuming the judge by being involved in the plea bargain discussions can still retain his prescribed impartial, objective role in fact and in the eyes of defendants and the public, should judicial involvement be systematized and structured? Currently, judges within the same jurisdiction hold quite different views as to the extent of the involvement they will play in plea discussion; and jurisdictions are free to formalize a judicial stage for plea discussions or not. In fact, whether there is a "pretrial conference schedule," "plea negotiation calendar," "disposition docket," etc., or whether the judiciary plays

¹⁷ See Furness and Atkins, *supra* note 1 at 106-100.

¹⁸ A recent LEAA study indicated that 49 percent of indigents had no faith in public defenders, feeling them to be "on the side of the state." Only 6 percent did not trust private practitioners. 16 Crim.L.Bull. 39 (1979).

a very active role in helping arrive at pleas, or a passive role by waiting for an agreement to be brought to them, may depend solely on a change in the master calendar or presiding judge for the term. Should a pretrial stage and the role of all parties subject thereto be formalized in all jurisdictions or at least consistent in an individual jurisdiction?

(17) Despite the fact that cases and possible dispositions are discussed between both attorneys and the judge at these informal conferences, and ultimate resolution is arrived at there, the defendant is almost always excluded and no record is required. Attorneys and judges are opposed to the defendant's presence and a record in chambers or moving the discussions to open court on the ground that such would reduce the candor of the three functionaries involved. Yet probably nowhere in the system more than in these secretive sessions does the process earn its disrepute. Why is candor not possible before the defendant and the public, both of whose interests are most at stake? The personal presence of the defendant (unless waived) and the presence of the public, at least vicariously by way of the record (if not by way of victim and police presence), would go a long way toward controlling actual or imagined abuses of this process.

(18) One jurisdiction studied goes so far as to routinely take the formal acceptance of guilty plea in chambers. Despite the presence of the defendant and a record at that time, does such a procedure comport with basic constitutional precepts?¹⁹

(19) Judges disclaim any ability of lawyers to judge shop other than by the risk of exercising the statutory disqualification of one judge in each case by affidavit.²⁰ However, savvy attorneys indicated a great many more useful and less risky ways of getting the judge of their choice, in some instances simply by being aware of when judicial vacations, rotations, etc., were to occur. Is there a way to control this?

(20) Fixed trial dates, a tough continuance

policy, and a cutoff date beyond which plea offers are deemed rescinded and cannot be renewed, firmly kept in the absence of truly exceptional circumstances, seem to have some efficacy in expediting the movement of cases both to plea and to trial. When finally faced with trial preparation, the attorney's incentive to plea bargain is greater, but once prepared the attorney's personal need to plea bargain is lessened.

(21) Should the acceptance of an *Alford* plea²¹ continue to be in the discretion of individual judges or should the state mandate either their acceptance or rejection across the board?

(22) Would an announced schedule of sentence discounts for guilty pleas, with the possibility but not certainty of receiving the discounted sentence upon trial, be a more open and therefore desirable system than the present one?²²

(23) In most cases a plea agreement either prevails over a probation officer's contrary recommendation or is simply followed by the probation officer to avoid unnecessary work or conflict and loss of face. Accordingly, should the preparation of presentence reports following plea agreements be abolished or restructured? Or should the judges' consideration of a conflicting report be more directed than it presently is?

(24) Most probation officers agree that the new determinate sentence law²³ has increased the verification of facts made by them in their presentence reports. Although they tend to complain about this because of the increase in work, clearly an increase in the accuracy of information on which sentence is based has to be considered as a quite positive effect, assuming, of course, that the sentence is in fact based on such information.

Closing

The above conclusions, issues and questions represent only the tip of the iceberg of a complete analysis of the data gathered. They also are stated here only as they pertain to that *smaller* part of our criminal justice process, namely felonies. Their implications for the misdemeanor process may be of even greater impact. As unstructured as the felony process is as to plea bargaining, the misdemeanor process is even more so and has vastly greater numbers. Potential sentences for misdemeanors are, by definition, much lower; other negative consequences are less; and time served in exchange for a plea is almost routine. Accordingly, it is as to misdemeanors where the pleading of innocents might be found to have major significance.

¹⁹ Cal. Penal Code §§ 1017 and 1018 both state that every plea must be made in open court. What is meant by open court has not been construed.

²⁰ Calif. Code of Civil Procedures § 170.5.

²¹ See note 10 *supra*.

²² Kaplan, *American Merchandizing and the Guilty Plea: Replacing the Bazaar with the Department Store*, 5 Am.J.Crim.Law 213, 222 (1977). Interestingly, Mr. Justice Stewart in his concurring opinion in *Corbitt v. New Jersey*, *supra* note 9a, stated: "Could a state legislature provide that the penalty for every criminal offense to which a defendant pleads guilty is to be one-half the penalty to be imposed upon a defendant convicted of the same offense after a not guilty plea? I would suppose that such legislation would be clearly unconstitutional under *United States v. Jackson* [390 U.S. 570, 68 S.Ct. 1299, 20 L.Ed.2d 134 (1968)]."

²³ The Uniform Determinate Sentence Law of 1976. See Cal. Penal Code § 1170 et seq.

The Determinate Sentence and the Violent Offender: What Happens When the Time Runs Out?

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WITH A TRUE determinate sentence such as was enacted in California, there will be prisoners mentally ill at the end of their terms—and they must be released from prison. That fact has resulted in continuing, but so far unsuccessful, efforts to breach California's Determinate Sentencing Act, in effect since July 1977.

After some 4 years of debate, the Legislature finally approved a bill to identify "mentally disordered violent offenders" (MDVO) and to hold them past the end of their prison terms only to have it vetoed by the Governor. The Legislature took its belated action even though experience showed the problem was not so severe as it had feared initially. That experience also demonstrated the value of a formal period of parole supervision and the ability of parole agents backed up by an array of mental health and other resources to manage a difficult clientele and protect the public.

Originally under California's Indeterminate Sentence Law, the releasing authorities had broad discretion since the statutory maximum for a wide range of offenses was life imprisonment. As a result, the mentally ill offender was often retained in prison until he was believed to be recovered.

That discretion was tempered by the California Supreme Court's decision in *In re Rodriguez*, June 30, 1975. Rodriguez had been held 22 years on a one to life sentence for lewd and lascivious conduct upon a 6-year-old girl. The court found the length of time served for the crime excessive and ordered that in the future the releasing authority must set a primary (or maximum) term for each prisoner's crime reflecting the "circumstances existing at the time of the offense" and "proportionate to the offense."

In the case, the parole board had denied release, in part because of psychiatric evaluations diagnosing the prisoner as a chronic schizophrenic in remission whose conduct was unpredictable. In a

footnote the court held that if his confinement were continued solely because he was not competent to care for himself in a free society, his imprisonment would constitute punishment for status which is constitutionally proscribed. This does not mean, the court said, that mentally ill persons who are unable to care for themselves or who pose a threat to life or property should be set free. The court said that adequate non-punitive means of taking care of them were available through the State's elaborate mental health system.

The adoption of the Determinate Sentence Law with its retroactive provisions (described in some detail in the March 1978 issue of *FEDERAL PROBATION*) provided a critical test of the court's idealistic pronouncement.

Determinate Sentence Really Is

In brief, the Determinate Law provides the court with three specific sentences from which to choose for each felony offense (other than murder and kidnapping with bodily harm). In addition, the court may enhance (add to) the sentence by specified time periods for prior prison terms served, for being armed, using a firearm, taking an amount exceeding \$25,000 or inflicting great bodily injury. Consecutive sentences may also be imposed.

For example, the court has its choice of a 2-, 3-, or 5-year term for robbery. The court is required to impose the middle term unless there are circumstances in aggravation or mitigation. If the robber personally uses a firearm in the robbery, his term may be enhanced by 2 years. If he also inflicts great bodily injury another 3 years may be added to his term. Thus, in this example, assuming the middle term were selected, he would have an 8-year term.

There are many possible complications in the sentence pattern. In some instances the total enhancements may not exceed the base term.

There are complex rules as to the calculation of the sentences for additional convictions if they are to run consecutively and there are some limits on the number of enhancements that may be applied.

When the person is delivered to prison the calculated sentence is reduced by any amount of time the person spent in confinement on the charge prior to being received. The remainder may be further reduced by one-third by participation in programs and abstinence from specified improper conduct while in prison.

Assuming the robber in our example had served 6 months in jail on the robbery charge while awaiting trial, conviction and delivery, he would be released in 5 years if he behaved and participated. But he couldn't be held longer than 7½ if he did not. There is no discretion to release earlier than the minimum nor later than the maximum.

The period of parole supervision is an add-on. At the end of the period of confinement the offender is placed under parole supervision. Originally the parole period for persons sentenced determinately was 1 year. Subsequently the law was changed to provide for a maximum of 4 years. If the person completes 1 year of continuous parole the burden is on the state to show good cause why he should remain under supervision. Confinement for parole violation may not exceed 12 months.

Retroactive Application

The measure enacting the determinate sentence required that its terms be applied retroactively to those persons then in prison serving indeterminate terms. In most cases this was a matter of substituting the new specific sentence for the old indeterminate one. However, the Community Release Board was given some leeway.

In court proceedings imposing *indeterminate* sentences, counts were often dropped and use of weapons formally ignored because of the long maximums and the knowledge the parole board would take those facts into account in setting the prison term. In our earlier example, the robber would have received a 5-year to life sentence on the robbery count alone.

The Community Release Board was permitted to hold serious offender hearings in such cases and compute the time with respect to the actual

offense or offenses. Even so, it was evident in some cases that with all possible time added, the person was due for immediate release—or was in fact long overdue.

In planning for the retroactive application of the law, the Department of Corrections identified about 175 accumulated mentally ill prisoners that it believed required specialized release preparation. Efforts were made to continue their confinement through involuntary hospitalization. In all but a few instances, these efforts failed despite the Supreme Court's rosy view in the Rodriguez case. The problem is the stringent civil commitment laws which in the words of the principal legislative author were "not intended to take care of criminals."

Indeed, Assemblyman Frank Lanterman, the "L" of the state's LPS¹ Mental Health System, was the author of one of the several bills to extend prison terms for mentally disordered violent offenders. The LPS laws require the person be "gravely disabled" or a danger to himself or others in order to detain him for a 72-hour treatment and evaluation. Gravely disabled means that the person is unable, because of his mental disorder to provide for his basic personal needs for food, clothing, and shelter.

If the person is found to be gravely disabled, the court may be petitioned to appoint a conservator. The disabled person has the right to a jury trial on the issue of his disability. If the conservator is appointed, the court may give him the authority to place the person in a hospital or under outpatient supervision. Conservatorships are for a 1-year renewable period.

If the professional staff find during the 72-hour evaluation that the person is a danger to himself or others and will not accept voluntary treatment he may be held for 14 days of intensive treatment. His detention is subject to judicial review.

After the expiration of the 14 days the person may be held for another 90 days only under two conditions: One, if the 72-hour evaluation resulted from his having attempted or inflicted physical harm to another person or if he threatened, attempted or inflicted physical harm after he was taken into custody for evaluation and treatment and, two, he presents an imminent threat of substantial physical harm to others because of his mental disorder.

The virtual impossibility of extending confinement of dangerous, mentally ill criminals through civil commitment proceedings had been antici-

¹ Assemblyman Frank Lanterman, Senator Nicholas Petris, and Senator Alan Short were the authors of the act providing community mental health services.

ted. Early versions of the legislation initially establishing the determinate sentence recognized the problem and provided for "extended confinement" of an inmate whose release would be dangerous to the public because of his institutional behavior or his mental deficiency, disorder, or abnormality.

The "extended confinement" provisions didn't last long in the legislative process, but the lead time built in to the sentencing act to permit its orderly implementation afforded legislators the opportunity to introduce individual bills to meet the problem. (The determinate sentence was enacted in September 1976 but did not become operational until July 1, 1977.) Efforts to rush "urgency" bills through the Legislature so they would be in effect concurrently with the determinate sentence failed despite heavy pressure from the Administration which was concerned with the potential danger and ensuing criticism of its major role in enacting the Determinate Sentence Law.

The Parole Division Prepares for Mentally Ill

Recognizing the new law would result in the release of mentally ill persons, the Parole and Community Services Division of the Department of Corrections geared up to meet the problem. Parole agents were given special training. All agents had been trained previously in techniques of crisis intervention. An additional 18-hour course in managing mentally disturbed and suicidal parolees was taken by all agents. The course dealt not only with intervention in a psychiatric crisis, but also such concerns as recognition of signs of recurring illness, symptoms of the failure to take medication, the presence of any side effects, and the need to be alert to the consequences of stressful situations.

Additional training was given some agents who were expected to handle specialized caseloads. Efforts were made to strengthen relationships with local mental health resources. Contracts were made with local public and private psychiatric hospitals for brief, voluntary hospitalization of parolees as needed.

The division had operated parole outpatient psychiatric clinics throughout the State since the mid-1950's. Clinic staff went to the State hospitals and prisons where prisoners about to be released were located. They met with treatment staff, reviewed the case files and in some

instances interviewed the patient in order to plan continued treatment.

As anticipated, when the Community Release Board reviewed the accumulated psychiatric cases it found they had already been so long in prison (or in State hospitals on transfer from prison) that there was no way to extend their already lengthy commitments and ordered their release. The average time served by this group was already nearly 4 years past the determinate date.

One hundred sixty-nine prisoners were released to parole or discharged from Corrections' custody and tagged for followup by the Attorney General (sponsor of one of the MDVO bills), the Community Release Board and the Department of Corrections. Conservatorships were granted for 16 prisoners and they, for the most part, remained hospitalized initially.

According to the Attorney General's figures, 45 percent of the 169 had been arrested within one year of their release. Many of the arrests were for minor alcohol-related offenses, shoplifting, indecent exposure, and other bizarre behavior, but others were serious. However, 18 months after release only 17 of the 169 had been returned to any prison with a new felony commitment according to Department of Corrections tallies. Two were convicted of murder, one of his mother and the other of his wife. Five were convicted of robbery, three for sex crimes, two for burglary, one for auto theft, and one for possession of a controlled substance. Five of the 17 had been discharged from parole supervision prior to the new offense. The parole period was, at that time, limited to a maximum of a year.

The figures were interpreted in two widely different fashions. The Attorney General, through a spokesman, termed the number of arrests as "atrocious" and "horrible." The State, he said, was powerless to control "the most volatile people, terribly dangerous to the community." He made sponsorship of MDVO legislation his number-one priority along with similar legislation dealing with a like problem of retaining mentally disordered sex offenders under treatment.

The Department of Corrections breathed a collective sigh of relief over the figures which it considered to be far more positive than anticipated. The outcome for the mentally ill group was about the same as a "normal" cohort of parolees. The department attributed the better than expected results to the intensive supervision afforded the cases, the availability of psychiatric re-

sources and early return to prison for brief periods of psychiatric treatment. Existing law permits the return to prison of a parolee for up to 90 days without this constituting a revocation or lengthening the time on parole.

The case of a man convicted of robbery and assault is illustrative. His parole agent made housing arrangements and provided him with meal tickets at a local restaurant. Though he needed greater care, he rejected any suggestions of a conservatorship.

The parole agent detected signs of serious emotional disturbance within a few days of the parolee's release. Eight days after release he was ordered back to prison for psychiatric treatment. He was released about 90 days later, but after only 2 days on the streets he was returned for another 90 days. Upon his release he was seen by the parole agent twice a week and attended the parole outpatient clinic weekly. The agent assisted him in securing social security benefits and provided him with emergency loans. This time he remained rational and cooperative for 2 months before again becoming disturbed and belligerent. He was returned for another 90-day treatment. By the time of his release he had only another month left under parole supervision. He agreed, however, to continue to see his outpatient therapist. Although he has since twice indulged in self-mutilation, he had remained free of criminal activity 10 months after the end of his year on parole.

Another example is that of a man initially received under sentence of death for two concurrent counts of murder in the first degree after a widely publicized trial during which he threatened to kill the prosecutor and several witnesses. Further court proceedings subsequently reduced the offense to second degree murder which, at the time the determinate sentence became effective carried a sentence of 5, 6, or 7 years.

Since he had then been confined 10 years, he was transferred to a State hospital in hopes that would facilitate involuntary hospitalization, but those efforts failed when he challenged them and won. The news of his release was widely publicized in the area where the original crime was committed so a crash program had to be worked out for him elsewhere. After temporary lodgings were found, he was interviewed there by a member of the outpatient clinic staff and the decision was made to retain him under parole supervision.

With considerable difficulty he was placed in a community day treatment program and was also seen at least weekly by one or more of the clinic's professional staff. On the anniversary of the murders he called one of his therapists at 8 a.m. on a Sunday. The therapist spent the day with him to help him over the crisis.

His progress was interrupted when a friend convinced him his medication was poison and he discontinued it with predictable results. Community treatment staff reported he was disturbed and they were frightened. His return to prison for psychiatric treatment was ordered. He was held 60 days at the California Medical Facility, one of the department's two psychiatric centers.

Upon his release, he resumed his community treatment program and continued without incident until his discharge from parole. He continued in the community treatment program, on his medication, and from time-to-time continues to contact parole personnel. He has been in the community continuously now for 19 months without any criminal incident.

Legislative Proposals Differ Markedly

Efforts at a legislative solution continued. Prison terms for some 40 violent crimes were increased. The period of possible parole supervision was extended in part to provide a longer period of control over mentally ill parolees who very often discontinued medication and therapy when released from supervision. But further hearings in late 1977 and in 1978 on MDVO legislation still brought no consensus.

The major differences among the bills included the definition of the mentally disordered violent offender, the process by which his status was determined, whether minors were included, and the period of time for which he was committed.

The broadest definition of an MDVO was that he had been convicted of a felony in the commission of which he had used force which resulted in or was likely to produce death or great bodily injury and by reason of mental defect, disease or disorder is predisposed to the commission of violent offenses and constitutes a substantial danger to the public safety by reason of the commission of future violent acts.

Some of the other bills required that he had attempted or inflicted death or serious bodily injury and others required it be done in a bizarre way or that there be a prior conviction of such an offense. Some listed offenses in which serious

physical injury did not necessarily occur such as oral copulation by threat.

Other variations required that the mental disorder be severe or serious and that he present an imminent threat of substantial physical harm to others.

Several of the bills made the determination at the initial trial. In that format, the prosecutor would file an allegation prior to trial. If the defendant were found guilty of the qualifying felony, there would be further proceedings under which the jury would determine if he were an MDVO.

Some of the bills included minors within their provisions and some counted prior juvenile findings of conduct that would have been a felony. The length of the MDVO commitment ranged from 1 year to 4 years in the various bills.

There were numerous subsidiary issues. Some of the measures requiring an initial court determination provided for a pretrial psychiatric examination that critics labeled self-incriminating. There were questions whether the person had to be amenable to treatment, whether the confinements should be in prison or a hospital and what was the proper level of psychiatric staffing.

The psychiatric profession opposed all of the MDVO bills although a spokesman for the conference of local mental health directors did call the one that was finally passed "the best MDVO bill we've seen."

A principal concern is that such legislation equates mental illness with violence when, in fact, many persons who are mentally ill are not violent and many persons who are violent are not mentally ill. "This tars all the mentally ill with the brush of violence," one witness said.

A Department of Corrections study of its intake of persons convicted of offenses in which they personally inflicted death or great bodily injury on others showed that while 58 percent had a prior assaultive history, only 6 percent were found to have a history of mental illness or hospitalization. (As a consequence of its study, the department switched its support from the MDVO concept to the concept of an indeterminate additional penalty for habitual violent offenders.)

A second major reason for psychiatric opposition was the profession's admission of its inability to predict accurately whether an individual would commit an act of violence. "We will be right about one out of every ten times," a psychiatrist told one legislative committee. "That is a

very uncomfortable feeling. We will be sitting ducks for defense attorneys."

The overprediction of violence was a theme that ran through all the hearings. While there were varying figures cited and studies noted, there was a consensus that with the present state of the art there would be substantial overprediction of violence.

The defense bar maintained that the "predictions are at best guesses." More important, the witnesses said, is that such bills change the philosophy of the law to deprive persons of their liberty for what someone thinks they are going to do rather than what they have done. Critics noted that none of the MDVO bills required that the prisoner commit violence in prison.

The American Civil Liberties Union said the bills made the status of mental illness a criminal offense. Prosecutors opposed some of the bills because they thought the burden of proof was impossible and others because they felt they did not go far enough.

But law enforcement, notably the Attorney General, persisted in pointing out the inescapable fact that any prescribed determinate sentence may expire while the convict is mentally ill and dangerous and that there was no alternative means of confinement. Periodically the arrest records of those released were aired.

Legislation Emerges

As the debate continued, the Legislature underwent a major change. The 1979 session brought 23 new members to the 80-member Assembly and changes in the Criminal Justice Committee. That committee had killed the earlier MDVO bills and was generally regarded as the key to any solution of the problem. A new chairman who had not previously served on it was named to head the nine-member committee. Three other new members were also appointed.

But it was a veteran member of the committee, convinced that "something has to be done" that drafted the bill that ultimately passed. The final version had lukewarm support from the Attorney General and the opposition was tempered by concerns that other "stronger" bills would be enacted if this were not.

The bill passed by the Legislature narrowly defined a mentally disordered violent offender as one who by reason of a serious mental disease, defect or disorder represents a substantial danger of physical harm to others and has been commit-

ted to prison under either of two circumstances:

(1) Conviction of an offense in which he personally inflicted great bodily injury, or attempted to kill a person, in such a senseless, excessive or bizarre manner that it substantially demonstrated the presence of a serious mental disease, defect or disorder.

(2) Conviction of a specified felony after having been convicted either previously or concurrently of another specified felony arising out of an unrelated transaction and involving a separate victim. The specified felonies are: murder, attempted murder, assault with intent to commit murder, voluntary manslaughter, mayhem, rape by force or threat, oral copulation by force or threat, sodomy by force or threat, or any other felony in which the defendant personally inflicted great bodily injury.

The bill put the responsibility for the identification of the MDVO on the Director of Corrections and required that he make available treatment equivalent to that of a State hospital.

If at the end of the prison term the prisoner were still an MDVO, the bill called for evaluations by the Department of Mental Health, the Community Release Board, and finally a jury trial before commitment to the Department of Mental Health for 2 years. If he proved to be unamenable to treatment or posed a security risk, the patient could be transferred back to prison after a hearing.

The person could be released as an outpatient with the approval of the court, the agreement of the county's mental health director, and assurance by the head of a health facility that the person would be supervised. There were also provisions for return. The bill appropriated \$3,214,000.

The various State agencies involved had estimated that about 115 persons a year would be identified as MDVO's at prison reception centers and another 35 at some later point in their confinement. Only a few of these would wind up with commitment to the Department of Mental Health.

In vetoing the bill, Governor Brown said that "while the idea is lofty, all my experience tells me it won't work." He said the "millions of tax dollars" could be "better spent elsewhere."

A case that may have played some role in the enactment of the legislation emerged in a county represented by the bill's author. The case came

to widespread attention when the news media described him as a "walking time bomb."

He had been sent to a state hospital and then to prison for shooting his employer. He had begun carrying a gun to his work as a dishwasher because he thought the Mafia was after him. Then he became concerned about foreign agents; deciding his employer was one, he shot him.

Nearing the end of his determinate sentence, he was still delusional and threatened death to a half-dozen persons he blamed for his imprisonment. Prior to his prison release date he was transferred to a State hospital and LPS procedures were initiated. It turned out he could be held only a few days past his prison release date under the stringent LPS requirements described above.

He was released to the custody of his parole agent who took him directly to the small hotel where he was to reside. It was managed by a woman with psychiatric training. A special unit of the department kept him under discreet 24-hour-a-day surveillance for the first week he was out. His parole agent continued to see him daily for several months. In addition, the parolee attended outpatient clinic therapy once a week. On the several occasions he missed the therapy meeting an agent checked on his whereabouts immediately.

The current level of supervision calls for twice a week contacts and his attendance at the clinic continues. At this writing, 5 months after his release, he has engaged in no improper conduct. But it hardly need be said that such an array of expensive resources can be employed on very few cases.

Conclusion

The fact that some prison inmates will come to the end of a determinate sentence either dangerous, mentally ill, or both, has caused grave concern. California legislators and others have invested many hours in trying unsuccessfully to solve what fortunately seems to be a diminishing problem.

The original impetus for legislation grew out of the prospects for release of an accumulation of about 175 mentally ill prisoners who were already an average of almost 4 years past what they could receive as determinate sentences under the retroactive provisions of the Determinate Sentence Act.

The accumulated prisoners were identified as those having the most serious problems of mental

disorder of the approximately 5,500 prisoners released in the 6 months following the effective date of the determinate sentence.

This group of prisoners did no worse in terms of the frequency of arrest than the average parolee and appears to have done better with respect to return to prison. While by no means conducted as a scientific experiment and with only limited followup data available, the experi-

ence clearly indicates the need for a formal period of parole supervision for this type of releasee.

Despite the fact that some of those under supervision committed serious offenses, the parole system demonstrated that with the necessary resources it can control a particularly difficult, troublesome type of offender and afford the public substantial protection it would not otherwise have.

Danish Use of Prisons and Community Alternatives

BY MARK UMBREIT*

THE DANISH system of criminal justice has received international recognition for its progressive penal policies and prison conditions. Denmark, along with its other Scandinavian neighbors, has over the years developed a system of criminal sanctions rooted in basic humanistic values of the worth of all individuals within society, along with the larger society's responsibility for crime among its citizens. While Denmark is a small homogeneous society, it does remain a western industrialized democracy that parallels in certain characteristics a number of American states. For example, Denmark is a nation of 5 million people just as the State of Indiana has a population of approximately 5 million.

This article will address three primary issues. First, it will examine the actual use of prisons within the Danish criminal justice system and in comparison with our Nation. Secondly, a brief survey of community alternatives or what we might call "community based corrections" in both Denmark and the United States will be provided. And finally, implications for American criminal justice policy will be identified.

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Incarceration Rates

An appropriate starting point for any discussion of the use of prisons within a society is in examining incarceration rates. Incarceration rates mean the number of citizens locked up in prisons for criminal offenses per hundred thousand citizens within that society. Contrary to beliefs held by many Americans that we are lenient on crime and ought to be tougher, the fact is that Americans lock up more people in prisons than any nation in the free world (based upon available data and excluding purely political offenses). In terms of the entire world, our incarceration rate for criminal offenses of approximately 250 per 100,000 citizens¹ is third only to the totalitarian regimes of the Republic of South Africa with a rate of 400, and the Soviet Union with a rate of 391.² In contrast, a number of western European nations have significantly lower incarceration rates. Most notably are France with the rate of 66, West Germany with the rate of 60, Denmark with the rate of 54, Sweden with the rate of 40, and the Netherlands with the rate of only 22 persons in prison per 100,000.³ An even more revealing fact is seen when one looks at selected American states in comparison with other nations. For example, the southern states of Florida and Georgia represent the highest incarceration rates for criminal behavior known or available in the world. The Florida rate of 420 and the Georgia rate of

¹ Eugene Doleschal, "Crime—Some Popular Beliefs," *Crime and Delinquency Journal*, January 1979, p. 3.

² William Nagel, director of American Foundation Institute of Corrections, "In Memory of Martin Luther King," *Fortune News*, April 1979.

³ *Ibid.*

410 even exceed the extremely high rates of South Africa and the Soviet Union.⁴ On the other hand, a number of American states parallel fairly closely the lower incarceration rates of the Scandinavian countries and certain western European nations. For example, the State of Minnesota with its rate of 80 and the State of North Dakota with its rate of 60 are quite similar to the incarceration rate in Denmark of 54.⁵

Crime Rates and Sentencing

As one examines the use of prisons from a cross-cultural perspective, it is important to look at the actual crime rates and sentencing patterns in the respective countries. Contrary to the belief that Denmark might not have that much crime, the actual rate of crime in Denmark per 100,000 citizens of 6,400 is higher⁶ than the national rate in the United States of 5,055, or the rate in Indiana of 4,273 crimes per 100,000 citizens.⁷ What is significantly different in Denmark is the rate of violent crime which is approximately 128 per 100,000 citizens⁸ as compared to 311 in Indiana or 467 violent crimes per 100,000 in the entire United States.⁹ An even more revealing difference is in the comparative murder rates, with Denmark having an extremely low homicide rate of .75 per 100,000 citizens¹⁰ while Indiana has a rate of 7 and the entire country has a rate of 9 homicides per 100,000 citizens.¹¹ So what is revealed is the fact that Denmark has at least as much, if not more, crime than the United States but the quality of that crime differs greatly, with Denmark having an extremely low amount of violent crime. It might be important to add, however, that taken as a whole the United States has a relatively low rate of violent crime as compared to the totality of serious reported crime in our Nation. Contrary to common belief among Americans, violent crime accounts for approximately 9 percent of all serious crime reported to the Federal Bureau of Investigation, with 91 percent of all serious crime being property related

involving no threat of violence or physical harm.¹²

It is in the area of sentencing convicted offenders that a dramatic difference is seen between the policy in Denmark versus the United States. For example, in Denmark 25 percent of all prisoners serve less than 3 months in prison while 56 percent serve from 4 to 12 months.¹³ This represents a total of 81 percent of all prisoners serving less than 1 year. In the United States approximately 2 percent of all prisoners would be serving prison sentences of less than 1 year. In Denmark, 19 percent of all prisoners will be serving sentences of more than 1 year, while in the United States 98 percent of prisoners will be serving prison sentences of more than 1 year.¹⁴ In the United States, there are approximately 450 prisoners awaiting execution whereas in Denmark there are no offenders awaiting execution since Denmark has abolished capital punishment totally from its criminal and military codes.

Purpose of Prisons

One of the more striking characteristics of the Danish prison system is the honesty and simplicity of its purpose. Danish prisons are viewed as punishment and punishment is viewed simply as deprivation of liberty or one's freedom to move about in society. While the Danes view the primary purpose of prisons as punishment, they also believe that the conditions within that deprivation of liberty or freedom should be as humane and as similar to the outside community as physically possible.¹⁵ This includes humane living conditions inside the prison, a much freer access to loved ones and friends in the free community, a liberal policy of contact visits which allow sexual relations to occur, and a liberal policy of contact furloughs which allow prisoners to go out into the community to visit friends or jobs or family. In contrast, in the United States the purpose of prisons is not quite as clear. While punishment is certainly part of a prison sentence, there still remains the philosophy of rehabilitation or "corrections." In addition, in the United States the punishment aspect of prison is not simply deprivation of liberty or one's freedom to move about in the community. It also includes the conditions of that deprivation of liberty. American prisons, with few exceptions, deprive their inmates or prisoners of many basic human rights and civil rights which would be normal in the outside community. These can include limited contact with the outside community, total absence

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Arne Baun, assistant commissioner of police in Denmark, "The Danish Police Force as Compared to the Police Force in an American State," lecture at University of Copenhagen, June 28, 1979.

⁷ F.B.I. Uniform Crime Reports, 1977, pp. 37, 38.

⁸ H.H. Brydensholt, director general of the Danish Criminal Justice System, "The Danish System of Penal Institutions," Lecture at the University of Copenhagen, June 20, 1979.

⁹ F.B.I. Uniform Crime Reports, op. cit., pp. 37, 38.

¹⁰ Arne Baun, op. cit.

¹¹ F.B.I. Uniform Crime Reports, op. cit., pp. 37, 38.

¹² F.B.I. Uniform Crime Reports, op. cit., pp. 37, 38.

¹³ Eugene Dolschal, "Rate and Length of Imprisonment," *Crime and Delinquency Journal*, January 1977.

¹⁴ *Ibid.*, pp. 52, 53.

¹⁵ H.H. Brydensholt, director general of the Danish Criminal Justice System, "The Danish Philosophy of Criminal Care," lecture at University of Copenhagen, June 20, 1979.

of normal sexuality, restrictive policies of furloughs out into the community, and meager, if not inhumane, living conditions while incarcerated.

While the policy of incarcerating criminal offenders remains firmly rooted in America and can be seen in an ever growing request for new prison construction, the Danish system of criminal justice has the opposite policy. As Americans are trying to put more people into prison, the Danes have a conscious policy of what they call "Downpenalization" along with a policy of "Depenalization." "Downpenalization" is similar to what we would call deinstitutionalization, which simply means getting people out of prisons quicker and limiting extremely the use of prison for criminal offenders.¹⁶ "Depenalization" is what we in America might call decriminalization, which simply means legalizing certain behavior that was previously defined as criminal.¹⁷ Actual examples of these policies in Danish society include the legalization of pornography, the legalization of possession of certain drugs, and a recent law which significantly shortened the time that a prisoner could be paroled into the community.

Community Alternatives

As the Danish criminal justice system is actively committed to continually reducing its reliance upon prisons as a criminal sanction, the issue of community alternatives has become crucial. The Danish system at present has a fairly limited yet clear number of community alternatives to incarceration. These include monetary fines for certain offenses, the use of halfway house programs for regular offenders or drug addicts, probation and parole. A special commission of the Danish Parliament has been examining more alternatives to incarceration. The newer programs being looked at include weekend imprisonment in which the offender can be free in the community during the working week, night imprisonment which would allow the offender to work actively on a job and stay with the family more regularly, and community work orders which are widely used in England and are beginning to be more actively developed in the United States.¹⁸

Two characteristics of the Danish criminal jus-

tice system in regard to both prisons and community alternatives that become evident is first the absence of any private sector involvement by private organizations that flourish in the United States and secondly, the total absence of voluntarism in which community volunteers go in the prisons or work with community programs.

In contrast, the United State's system of community alternatives or what we would call "community corrections" has a much wider selection of programs. In addition to the traditional community programs of parole and probation, it is not uncommon in various states to see numerous other programs such as pretrial diversion, halfway houses, prerelease centers, work release centers, community service work orders, restitution centers, community dispute resolution centers, and on and on. In the United States there exists a strong and active private sector working cooperatively with the public sector. Similarly, in the United States you will see a strong level of volunteer involvement in the field of corrections at all levels.

Beyond the descriptive comparison of community alternatives, the actual role that these community alternatives play in Danish and American society appears to be quite different. In Denmark, the use of their limited range of community alternatives seems to be strongly related to their overall national policy of downpenalization or what we would call "deinstitutionalization." Simply put, these community alternatives are an alternative to being locked up in prison. In contrast, in the United States, generally speaking our so-called "community alternatives" operate as a parallel system to the basic system of incarceration or prisons. While there are obviously exceptions to this generalization such as in the states of Minnesota and Massachusettes, it appears that most often American community-based correctional programs are not directly related to locking less people up in prisons. Some would even argue that many of the so-called "alternatives" actually widen the net of social control by the state and the number of people who are labeled and stigmatized by the criminal justice system has been increased.

Limitations of Danish System

In any cross-cultural analysis of public policy, the learning experience should usually be two directional. Despite the international recognition of the Danish criminal justice system for its in-

¹⁶ Knud Waaben, chairman of the Criminal Law Committee of the Danish Parliament and professor of law at the University of Copenhagen, "The Criminal Justice System," lecture, July 6, 1979.

¹⁷ *Ibid.*

¹⁸ Knud Waaben, chairman of the Criminal Law Committee of the Danish Parliament and professor of law at the University of Copenhagen, "The Criminal Justice System: Prisons and Alternatives," Lecture, June 21, 1979.

credibly humane policies, the Danish system has its own problems. While the Danish system legitimately deserves recognition, it behooves them to address a number of outstanding issues which they might even be able to learn from our experience in the American criminal justice system. For example, the common Danish policy of using lengthy pretrial detention with total isolation of the defendant, in order to keep evidence "pure," would be unacceptable in the American system. In Denmark, it is possible that young offenders could be kept in total isolation (solitary confinement) for many months, even a year, on the assumption of innocence and prior to the trial.¹⁹ This practice and its possible psychological damage has become a major issue of controversy in the Danish criminal justice system, as it ought to be.

Another area that our own criminal justice system can offer to the Danes is found in our wider range of community-based alternatives and programs. While we need to relate our community-based programs more directly toward policies of deinstitutionalization and alternatives to prison, the range of programs operated in the United States might be of assistance to the Danish system as they look for more community alternatives.

In the United States, private sector involvement by community volunteers and through numerous private organizations plays a vital and healthy role in the American criminal justice system. It at times involves a certain level of creative tension between the public and private sector. This tension is necessary for a check and balance system of public policy. Certainly the Danish system could learn from our experience and significantly broaden the use of community volunteers and private organizations in its system of criminal justice. This need has already been recognized by a number of officials in the Danish system.

And finally, an area that the United States has perhaps led in is the growing interest and response to the needs of victims of crime. This has been seen in a flourishing of victims assistance programs throughout our Nation over the last few years. Victims of crime often times represent the most forgotten people in our criminal justice system. Programs that address their needs can do so both as direct service to the

victims or involving direct contact between the victim and the offender through which a restitution agreement can be made. In Denmark, there is virtually no existence of programs to service the needs of victims. While the Danish social service system offers a greater buffer to the problems facing victims of crime, there still exists a strong need to provide help and support to people who are traumatized by being the victim of a crime.

Implications for American Justice Policy

In regard to specific implications for American criminal justice policy, many questions are raised and it becomes difficult to speculate on the transferability of certain Danish justice policies to American society. The fundamental question that must be raised is why do Americans embrace so firmly the concept of incarceration despite no evidence of its relationship to crime reduction? Particularly in the era of Proposition 13 and the incredible cost of keeping people in prison, which can be in excess of \$15,000 a year, why do we continue to keep locking up so many criminals?

Any attempt to examine the transferability of Danish policies to American society must examine the basic cultural values and social traditions of both societies. Certain distinctive cultural values in Denmark such as abhorrence of violence, an acceptance of rules and emphasis on orderly behavior, a deep respect for nature, a strong respect for privacy of individuals and families, and a desire for harmonious relationships with others are clearly related to the type of policies found in the criminal justice system.²⁰ On the other hand, certain cultural values found in the United States which highlight violent solution to conflict, a strong amount of competitiveness as opposed to cooperation among people and a strong achievement ethic are also related to the type of policy found in the American criminal justice system. Because of these value differences, it becomes difficult to examine the transferability of criminal justice policies between the two societies. Yet despite this difficulty, I believe there are a number of areas in which the American criminal justice system could profit from the Danish experience.

First, the honesty found in the Danish system of prisons is something Americans could definitely learn from. Taking the rouge away from what prisons really are and calling them what they are in fact would go a long way toward addressing some of the problems we face in our prison

¹⁹ Barbara Swartz, Fulbright Scholar, University of Copenhagen, "The Danish Prison System's Dark Underbelly: One American's View," article published in Danish newspaper, June 1979.

²⁰ Spencer Hildahl, seminar director of summer session in criminology and criminal justice at University of Copenhagen, professor of sociology, Wells College, Aurora, N.Y., "Danish Criminal Justice Policies and Their Relationship to Danish Cultural Values," lecture in Copenhagen, June 18, 1979.

system. Simply put, we should openly call prisons what they are, and what they are is punishment and not institutions of "corrections." In making this initial statement, perhaps we could then go beyond the reality of punishment and begin to accept that within the context of punishment, which is deprivation of one's freedom of movement, we could make conditions within the prison more humane and reflective of the outside community. This would seem to be a rational policy since over 95 percent of those incarcerated will eventually be released into the community.

Secondly, the key role of leadership in the Danish criminal justice system provides an example to American correctional officials to follow. While there are examples within our own Nation of outstanding individual leaders that took significant risks, it appears that the leadership in the Danish criminal justice system has consistently pushed for more progressive, humane, and rational policies relating to crime and punishment. This has been done despite a lack of public consensus at all times for such policies. Contrary to what many might believe, polls and surveys conducted on Danish citizens have indicated that most Danes want a tougher policy in dealing with criminals.

A third area that we as Americans can learn from the Danish system is that public policy can go beyond understandable feelings, concerns, and fears and can move toward a more humane and rational system of justice. The Danish response to crime among its citizens represents an unusual commitment to basic humanistic values which affirm the dignity and worth of all individuals within its society, despite their actions and behavior. It represents a tolerance of certain behavior and a humble acceptance of society's responsibilities for much of that behavior.²¹

And finally, perhaps the most relevant Danish policy that could offer immediate help to the American criminal justice system is found in the Danish concept of "downpenalization" and "depenalization." As American prisons become increasingly overcrowded and many states are actively involved in planning for massive construction programs placing millions of dollars into building more prison cells, these Danish policies have a great deal of practical relevance to

the American system. For example, our immediate American mentality in regard to prison overcrowding appears to be that we need to build more prisons despite their extremely high cost, which can exceed \$50,000 per bed space.²² Would not a policy of "downpenalization" or what we might call "deinstitutionalization" be more logical? Why not offer parole to prisoners quicker in order to shorten their sentences and create a quicker turnover rate within our Nation's prison system? Why not place many of the nondangerous offenders who currently inhabit prisons into community-based programs at a lesser cost? This is what the Danish system of "downpenalization" means. Applying such a policy in the American system would offer a practical, humane, and less costly solution to our problems of prison overcrowding. And it would do so at little risk to the public. Similarly, the policy of "depenalization" or what we might call "decriminalization" would also offer a good deal of practical assistance to our system. Why not decriminalize certain behavior which is not definitely related to any victims other than one's own self and which is highly demanded by many citizens? Would it not be a practical solution to address the backlogs in our courtrooms and the overworked schedules of our police officers to depenalize or decriminalize certain nondangerous behavior such as pornography, use of mild drugs, and certain related "victimless" crimes, thereby allowing police to focus on more serious crime?

The Danish criminal justice system is an unusual example of public policy development that is not only rooted in cautious national and local political self-interest, but also embraces a number of basic humanistic values which affirm the inherent dignity and worth of all human life. As Americans strive to create a more rational and humane system of justice for our people, we must not only examine the policies of other progressive nations but of equal importance we must re-examine our own values of freedom, liberty, and resistance to oppression which are so deeply rooted in our Nation's history.

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"Corrections: A Scandinavian Perspective," a 16-minute slide show and tape which examines the internationally recognized Danish justice system in the context of a number of characteristics of the United States criminal justice system.

²¹ *Corrections Magazine*, "Profile/Denmark," March 1977, p. 24.

²² National Council on Crime and Delinquency, "Prisons: The Price We Pay," 1977, p. 7.

Criminal Justice Education: A Question of Quality

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FAR LESS is known of demographic and organizational aspects of educational activities in general and academic criminal justice in particular than would be expected considering the considerable sums of money invested in their development. Indeed, it is interesting to note that those very individuals responsible for wide ranging criticisms of our society question so very little about their own activities. While this is true in varying degrees of all academic disciplines, it is certainly true in the case of criminal justice. As evidenced by the Misner report (Misner, 1978), few criminal justice educators would deny the compelling need to learn more about the structure and nature of criminal justice education. Minimally, the phenomenal growth of criminal justice education (Foster, 1974; Hoover, 1975; IACP, 1978; Wool and McKernan, 1976) requires that efforts be made to document the development of our discipline.

Tenny (1971) documented a less than desirable level of academic achievement among criminal justice faculty members shortly after the widespread growth of programs began. Yet, it is not clear if the situation has improved since that time. However, one report (Sherman, 1978) concerned with such matters has attracted considerable attention in both the popular and the academic press (McGrath, 1978). Moreover, it has generated a sufficient response among those concerned with criminal justice education that a national conference was sponsored by the Law Enforcement Assistance Administration to consider the issues raised by the report. Although the report dealt at length with many educational matters, that aspect of the report attracting the greatest response involved its critical assessment of some criminal

justice programs. The criticism, focusing on associate degree programs, concerned such matters as the quality, content and purpose of instruction, the academic qualifications of faculty, and the full-time/part-time employment status of faculty.

Research Questions

The North Carolina Criminal Justice Education and Training System Council¹ received a legislative mandate to plan a "criminal justice education and training system" (Tucker, 1978). In preparation for the development of that plan, a survey of criminal justice programs in North Carolina was designed. It was hoped such an analysis might provide a framework about which planning for the deployment of existing resources, and judgments about changes in the North Carolina system might be secured. Also, it was anticipated the findings of such a survey might provide a partial answer to the questions raised by Misner (1978) and Sherman (1978).

Method

In 1968 a questionnaire was mailed to all schools in North Carolina offering degree programs categorized by the HEGIS classification system as "Law Enforcement and Corrections," and to programs offered under other disciplinary labels but oriented to some element of criminal justice. A "criminal justice" degree program, for example, would be included in the former category, and a "sociology" degree with a "law enforcement option" would be among the latter. It is important to recognize some of the criminal justice related programs were in the process of changing to criminal justice programs. The distinction, therefore, in many instances was more one of semantics than substance.

The questionnaire was followed by a reminder letter. Those schools not responding to the letter received personal phone calls, and in some instances a letter to the chief administrator of the schools. This was continued until the total sample had responded.

¹ The writer is indebted to Sue Lyons and Alice Ratcliff of the North Carolina Justice Academy who provided valuable suggestions and assistance. Chief Melvin Tucker, chairman of the North Carolina Criminal Justice Education and Training System Council, provided the leadership for the writing of a State plan for criminal justice education, of which this survey served as one part. Belinda McCarthy provided valuable criticisms of the paper. Harry Allen, Peter Lejins, Harold Vetter, Christine Rasche, William Mathias, Richard Myren, and Gordon Misner provided valuable insights into criminal justice education. An earlier draft of this paper was presented at a seminar of the National Symposium on Higher Education for Police Officers held February 7, 1979, in Washington, D.C.

Subjects

All educational institutions reporting to offer a criminal justice degree program of some type returned the questionnaire. Of the 58 respondents, 43 were criminal justice programs in community colleges and technical institutes. Of the remainder, six were baccalaureate level criminal justice programs, and nine were baccalaureate level programs in related disciplines. Nine of the baccalaureate level programs were located in the state university system and six were in private schools. Many were new programs, although some had been in existence for nearly a decade. Almost all respondents completed the questionnaire completely, although a small minority did not.

Results

Program Dimensions.—Programs were requested to report the number of majors enrolled and the number of individuals holding faculty rank in the programs for the years 1974 through 1978. The number of students increased from 3,383 ($x=97$) in 1974 to 6,302 ($x=109$) in 1978. The baccalaureate degree programs showed the largest growth in terms of the percent increase in students and in the average size of the programs.

It was noted the criminal justice programs experienced a peak during the 1975-76 period. Yet, some programs reported significant reductions while others indicated substantial growth for the entire 1974-78 period. Also, anecdotal information suggested profound changes in the nature of the student bodies occurred during the 1974-78 period. Initially criminal justice students were primarily white male inservice police officers, yet such students had become a minority.

The absolute number of individual faculty members employed in associate degree programs decreased while the number in baccalaureate degree programs increased. The same was true in regard to the average faculty size. In 1978, 134 individuals held rank in faculties averaging 2.3 members in size.

Demographic Characteristics of Students.—Most students were white males, attending school full-time before beginning a career. The average proportion of females and full-time students enrolled in associate degree programs was less than that found in baccalaureate programs. That most students were full-time, preservice individuals even in the associate degree programs

was felt to have implications for planning. That criminal justice programs in predominantly white schools attracted substantial numbers of nonwhites was felt to have significant implications for affirmative action policy.

Faculty Characteristics.—The baccalaureate programs employed a higher average percentage of full-time faculty than did the associate degree programs. Also, the baccalaureate degree programs employed more faculty holding advanced academic degrees than did the associate degree programs. It is important to note that at least 31 individuals holding less than a baccalaureate degree were employed on the faculty of some associate degree programs. The average percent of faculty holding doctorates, J.D.'s, master's, and baccalaureate degrees as their highest degree, in all baccalaureate degree programs combined was 42 percent, 10 percent, 45 percent, and 1 percent, respectively. Most faculty in baccalaureate degree programs held a terminal degree and none held less than the baccalaureate degree.

Comparison of Program Types.—Baccalaureate degree programs were found to differ considerably from associate degree programs on several levels. The former had more full-time and more female students. However, the average percent of nonwhite and preservice students in the baccalaureate degree programs was about the same as in the associate degree programs. Pronounced differences between associate and baccalaureate programs in faculty qualifications and faculty status were noted. The average percent of full-time faculty for all baccalaureate degree programs combined was 77 percent, while the associate degree programs reported an average percent of full-time faculty of only 43 percent. Also, the baccalaureate degree programs reported 55 percent of the faculty held some form of a terminal degree, while only 23 percent of the faculty of the associate degree programs were so described. Differences between associate and baccalaureate degree programs are shown in table I.

Curriculum.—Most majors offered by criminal justice programs were identified as "police science," "corrections," and "criminal justice." Most criminal justice courses dealt with law enforcement and corrections. Very few courses dealing with the courts, law, juvenile justice, criminalistics, or criminal justice research were offered.

The average number of semester hours required in criminal justice courses ranged from 33 in the criminal justice related programs to 43 in the

TABLE I.—Associate and baccalaureate degree programs compared, spring 1978

	All Associate ($\bar{x}\%$)	All Baccalaureate ($\bar{x}\%$)	All Programs ($\bar{x}\%$)
Full time students	69%	79%	72%
Female	21%	37%	26%
Inservice	31%	25%	29%
Non-white	30%	31%	30%
Full time Faculty	43%	77%	52%
Faculty holding doctorate	3%	42%	13%
Faculty holding baccalaureate only	42%	1%	32%
Faculty holding less than baccalaureate	12%	0%	9%

associate degree programs. The associate degree programs required more criminal justice hours than did the baccalaureate degree programs, yet the total number of hours required for graduation from an associate degree program was approximately one-half that required by a baccalaureate program. The mean of 43 criminal justice hours in the associate degree programs, therefore, constituted a vastly larger amount of the coursework required for graduation than the fewer hours in criminal justice required as part of the baccalaureate programs. Also, if a student transferred from an associate degree program to a baccalaureate degree program, such a large segment of their educational experience would have been devoted to criminal justice coursework that it may be prudent to question if important elements had been missed. This problem may be clearly seen from the distribution shown in table II.

Interface With Applied Agencies.—Respondents were asked to indicate if their faculty provided services to the criminal justice system, and if an advisory committee involving practitioners was utilized. Service was described as "research," "workshops and consultation," or "both." Criminal justice agencies were most likely to obtain service from the baccalaureate degree programs and to have input into policy decisions in the associate degree programs.

Program Evolution.—The subjects were asked to indicate the direction their program had evolved since its inception. They indicated if it had become "more technical, directed at specific job skills" or "less technical, directed at general education." All but one of the baccalaureate degree programs reporting change indicated the program had become less technical. Of the as-

TABLE II.—Curriculum components across academic areas, by program type, spring 1978

	Criminal Justice Programs (4 years)	Criminal Justice Programs (2 years)	Criminal Justice Related Programs (4 years)	All Programs
$\bar{x}\%$ in C/J	29%	57%	21%	49%
$\bar{x}\%$ in humanities	29%	13%	25%	17%
$\bar{x}\%$ in social science	26%	17%	27%	20%
$\bar{x}\%$ in social professions	8%	4%	9%	5%
$\bar{x}\%$ in natural science	8%	8%	9%	8%

sociate degree programs reporting change, 55 percent indicated the program had become more technical. However, the remaining associate degree programs responding indicated their programs had become less technical, indicating a possible dichotomy of associate degree programs types.

Institutional Support.—One aspect of the widespread growth of criminal justice capturing the attention of most members of the profession has been that of institutional support. This has been tied to the efforts to secure for the discipline an equal position among the social sciences (Adams, 1976; Lejins, 1970; Misner, 1978). Also, it has been argued that many schools have welcomed the students and resources attracted by criminal justice programs, but have been unwilling to support such programs adequately. Other academic disciplines, less willing to acknowledge the social and academic desirability of criminal justice programs than the possible threat they might present for student recruitment and resource allocation, have sometimes presented major resistance to criminal justice program development (Adams, 1976; Lejins, 1970). Such resistance may have contributed to any lack of institutional support criminal justice programs have received.

Evidence of inadequate support was seen in the correlation of the change in faculty size from the inception of the program to 1978 with the change in the number of criminal justice majors for that same period. An overall correlation (all programs) of 0.04 was obtained. Programs identified as "criminal justice," offering a baccalaureate degree reported information producing a correlation of 0.75. Associate degree programs, however, reported information producing the revealing correlation of -0.20.

The National Advisory Commission on Higher Education for Police Officers

Some of the information collected as part of this survey relates to issues raised by the National Advisory Commission on Higher Education for Police Officers. In order that the degree of consistency between the North Carolina survey and the national study might be clearly seen, some elements of the National Commission report will be cited.

The North Carolina survey found that most students were preservice, white male students. The national study noted that "... there appears to be a sharp decline in the percentage of students who are in-service officers" (Sherman, 1978, p. 145).

The North Carolina survey found that faculty in associate degree programs were often poorly qualified. The faculty of criminal justice programs were described by the National Commission as "... woefully underqualified" (Sherman, 1978, p. 134). However, the distinction between the quality of associate and baccalaureate degree program faculties was not adequately drawn by the National Commission, so that a picture of inadequacy was cast on all criminal justice programs. This was not only irresponsible and unjustified, but not even consistent with the data of the National Commission report itself. Table II of that report (Sherman, 1978, p. 120) shows 1975-76 full-time criminal justice faculties as having a larger percentage of personnel with no graduate degree than "all faculty nationally 1972-73." However, the variance between the two figures results from the contribution of the associate degree programs. In the case of the baccalaureate degree programs, the percentage of faculty with "no graduate degree" is approximately the same as the national figure, and in the case of "all universities," the full-time criminal justice faculty included *LESS* (4.5% less) faculty with "no graduate degree" than the national figures. Moreover, the other recent major national study of criminal justice education noted "Compared with national higher education statistics, criminal justice has a *higher* than national average of doctorates among the ranks of its faculties" (Misner, 1978, p. 25). Rather than a picture of despair, such results may be considered as a positive development. The unfortunate tendency of the National Commission to interpret its findings in a negative light was also observed in other elements of the report.

The National Commission argued that police technology programs involved an undue specialization in police related courses (Sherman, 1978, p. 81). The North Carolina survey supported that position, finding a large number of police science courses comprising the associate degree curricula. Such was not the case, however, with the baccalaureate degree programs, which included a much smaller percentage of their courses in criminal justice, and involved coursework from the other social sciences, humanities, natural sciences and social professions.

The National Commission identified four criminal justice curriculum typologies (CJ liberal arts, CJ professional, "fusionist" liberal art professional, and police technology) plus a "general education" model. Reporting a survey of the frequency with which such curriculum typologies occurred, they concluded that "The criticism of excessive vocationalism is less valid today than it was say, five years ago" (Sherman, 1978, p. 83). Then, on the basis of a survey of criminal justice textbooks, classified by degree of abstraction, they argued "... the reported death of excessive vocationalism ... may have been somewhat exaggerated" (Sherman, 1978, p. 85). Such a conclusion was mitigated, however, by the fact that the book survey involved only a 24 percent response rate. Moreover, of those responding and listing books, only 80 percent of the books identified were classified. Also, the categories of book types were not sharply drawn, so that some categories might have been divided or collapsed. Finally, although their data included information on school type (Sherman, 1978, p. 85) categorization of curriculum abstraction level was not made on the variable of associate/baccalaureate degree level. The North Carolina survey did categorize by associate/baccalaureate degree level, and found a considerable difference between the two types: the baccalaureate degree programs had become *less* technical over the past several years, while associate degree programs had become *more* technical. This was consistent with the other findings of the National Commission and the Misner report, and suggested the National Commission's position that criminal justice programs, *considered as a totality*, were "... far too narrow" (Sherman, 1978, p. 86) was misleading.

The National Commission found that police departments and criminal justice programs often have a close relationship. The North Carolina survey supported that finding, but specified that

a greater degree of control by police departments of academic curricula occurred in the case of the associate degree programs than baccalaureate degree programs. Again, however, that distinction may not have been adequately drawn by the National Commission. The North Carolina survey suggested that in most cases of formal contact between baccalaureate degree programs and police agencies, the contact was constructive, providing research data and service opportunities, involving police officers who might not otherwise have enrolled in education programs, and providing faculty with a valuable perspective on their subject matter. Such contact leading to constructive change is, after all, one of the major goals specified by the National Commission.

Many other issues were raised by the National Commission—far too many for this article to respond to each one. However, several general themes ran throughout the National Commission's report which might be considered from the perspective of the North Carolina survey.

It appeared the National Commission argued as follows, for the central thrust of their report:

- (1) Police systems should be changed.
- (2) Education of police personnel will produce change in the police system.
- (3) Criminal justice programs do not provide an adequate educational experience to produce the necessary change.

THEREFORE:

- (4) Technical aspects of criminal justice education should be terminated, other elements change to a more scholarly posture, and other disciplines more heavily involved in police education. Decisions regarding educational policy based on these positions, as expressed in the National Commission's report, might consider several aspects of the report and perspectives on its interpretations that might not be readily apparent.

Although the reader might be lead to believe otherwise, some fundamental positions of the report were not adequately documented and did not proceed from a sound empirical base. For example, consider the National Commission's implication that a criminal justice major is *not* a more desirable major than that of some other social sciences. The effects of education are simply too confounded by the effects of other variables and the research literature on that topic is not sufficiently complete to justify such a position (Smith, 1978; Carter, et al., 1978). While a close reading of the report will indicate the Commis-

sion intended to convey the idea that criminal justice should not be the *sole* major for police, that police should be drawn from many majors, of which an important, crucial one was criminal justice, such an interpretation is unlikely to be made given the manner in which the idea was presented. A more realistic assessment of existing knowledge related to the effects of academic major would likely conclude there is far more justification for students receiving a criminal justice major than was apparent from the National Commission report. The tendency of the report to generalize beyond the limits of the data cited was noted throughout the report.

Some of the positions stated in the report were inaccurate. For example, it reported that one reason for preservice education was that the need to educate existing police had been answered. That was not shown to be true. Also, a recent survey in North Carolina (Adams, 1978) found the largest proportion of law enforcement personnel in that State had not received an adequate education. Moreover, the information presented by the National Commission did not indicate police generally had received a *basic* education, only that a substantial number had been exposed to higher education. Also, there was a naivete to some positions, as in the discussion of incentives for police to attend school. If it is agreed it is desirable to attract police personnel into university curricula, it is unreasonable to assume they will turn out in substantial numbers solely on the basis of intellectual curiosity, and for majors that are not of interest to them. Had that been true, they would have attended college prior to the advent of the widespread criminal justice curricula, but they did not.

The National Commission confused some of their arguments by failing to distinguish among some important variables. Arguing that criminal justice majors do not get a liberal education failed to distinguish the effects of the major courses from the effects of the entire program. Students in baccalaureate programs are involved in courses offered by other disciplines. Also, most programs in the social sciences require that students complete a program of general education unrelated to the major. Such students *do* receive a liberal education. As another example, arguments for the urgency to involve police in full-time residency programs ignores the probable interaction effect of "residence experience" and "age." The effects of being a full-time student are likely to be greater

in the case of the young adult than in the case of the mid-career individual. Considerations of such obvious effects would have made the arguments of the National Commission much stronger. Another example of confusion among issues was apparent in the unsubstantiated charges of mismanagement of the LEEP program. While the National Commission argued the *administration* of the program had been poorly handled, the areas cited requiring change involved only *policy* issues. While policy is a matter of individual judgment, inadequate management involves specific mishandling of situations. Failure to provide evidence for such an argument lends credibility to the change the critical aspects of the report may have been political or ideologically biased in nature (ACJS, 1979, p. 5).

The position that LEEP funds should be unrestricted is difficult to defend. That position seemed to be based on the argument that inservice officers are familiar with all important law enforcement issues, and do not require additional exposure to them, needing only the development of analytic skills. This is not consistent with the National Commission's position that on-the-job experiences are not adequate for either academic credit or faculty qualifications. To reverse positions in such a fashion reduces the credibility of the entire report. A more defensible position for the Commission to have taken would have involved denial of on-the-job experiences as appropriate for academic credit, faculty qualifications, and as experiences producing abstract, scholarly understanding of criminal justice issues. Students completing the criminal justice as liberal arts curricula not only develop broad problem-solving skills, wide appreciation of the world about them and its issues, and other attributes of the liberal arts experience, but also have experience in the application of such skills to complex criminal justice problems. Also, in contrast to the works cited by the National Commission, at least one research project has indicated that most criminal justice majors find employment in the criminal justice system (Adams, 1977). It is appropriate to restrict the use of LEEP funds to those programs and students best equipped to utilize them as anticipated by Congress, and most likely to do so.

That aspect of the National Commission report which appeared to be most misleading, and which will be construed by many as a major blunder by the National Commission, involved its negative

interpretation of the entire field of criminal justice education. This was inappropriate in the case of those academically sound criminal justice baccalaureate and graduate degree programs, identified by the National Commission as "fusionist criminal justice education." Such programs provide not only the liberal arts experience and perspective, and provide general problem-solving skills applicable in a wide range of settings, but also provide an opportunity for study and research about criminal justice matters. The tone of the National Commission's report, however, suggested that criminal justice programs generally failed to provide an adequate educational experience. At the very least, such is the impression many persons may receive from an initial review of the report. Much of the report was useful, constructive, and badly in need of being publicly emphasized. The acknowledgement of the fact that academically inadequate programs, of which there are many, primarily at the associate degree level, should be terminated and certainly not given LEEP funds, encouragement to develop criminal justice in a more scholarly direction, and the development of chairs in criminal justice were all examples of constructive elements of the report. Yet, many programs are presently consistent with the recommendations of the report, both in philosophy and in substance. Individuals representing such programs will applaud the standards endorsed by the National Commission (Mathias, 1979). However, the negative tenor of the report cast a pallor over the field of criminal justice education, at least in the eyes of our colleagues in other disciplines unfamiliar with the actual state of affairs.

Of particular significance was the report's failure to acknowledge the significance of graduate level criminal justice education. The long-term impact of criminal justice education will probably come primarily from the graduate programs, yet the report ignored such issues. Here, as was true throughout the report, the National Commission had an opportunity to encourage the development of criminal justice education, and failed to measure up to that opportunity. In that sense the report will lose its potentially powerful impact.

Conclusions

Radical changes in the composition of the student bodies appeared to have occurred over the past several years. If this occurred in North Car-

olina, it is logical to assume it occurred in other states. Also, if the student bodies are now composed of young and inexperienced individuals, the tasks of the programs has changed. The technical coursework is less important than was true when the inservice student predominated. Rather, the task of the programs serving predominately preservice students should be oriented around preparation for general life experiences coupled with applied skills applicable in a wide range of criminal justice settings. Certainly, the preservice student must learn about the criminal justice system, but he/she should also learn generalizable problem-solving skills, and means of maximizing his or her individual potential.

Much needs to be done to improve some criminal justice programs. Some, operating primarily with part-time faculty, without the support of their administration, whose full-time faculty possess marginal or clearly inappropriate academic qualifications, should be terminated. Others, however, have made significant strides beyond the level described by Tenny in 1971. Those programs will probably prosper, and develop into agency oriented, applied social science programs. The model for this, in clinical psychology, social work, education, and business clearly exist.

Confusion regarding the purpose of criminal justice programs should be faced and resolved. Many associate degree programs see themselves as training programs. Many baccalaureate degree programs envision themselves as one of several social sciences, but with intimate ties and responsibilities lacking in the other social sciences, to a specific segment of society. The problem for the student caused by this state of affairs was apparent from the distribution of credit hours in various academic areas. Transfer students clearly suffer. In order to resolve this matter, associate degree programs designed as training programs should not sell their programs as "transfer" curricula, but should establish themselves as "terminal" programs. Associate degree programs wishing to offer the freshman and sophomore years of a baccalaureate degree program should provide exactly that, and insure their students receive the prerequisites they require for advanced study.

If it is true that the proper purpose of criminal justice education does not involve technical and job/task specific skills, but rather a more general educational function, why maintain any criminal justice programs? Why not terminate all criminal

justice programs, and reallocate the resources to other social sciences? Certainly strong and compelling arguments have been set forth justifying the termination of many technical associate degree programs or their alteration to terminal curricula. Indeed, there probably are some in higher education who would support such an interpretation of the Sherman (1978) study. However, such a conclusion is not justified from an educational perspective, nor is it consistent with the demands of our society for socially relevant educational programs impinging on the mechanisms of social control. Academically strong criminal justice programs particularly at the graduate level, should be maintained, and strengthened beyond their present level for the following reasons:

(1) Criminal justice curricula will provide a more comprehensive and complete study of crime and the criminal justice system than will "concentrations" within other disciplines. Criminal justice instruction employing multiple perspectives, and focused on the relationship of the elements of the criminal justice system to one another, is unique within the social sciences. It will not be duplicated by disciplines restricted to one methodological perspective or focused on phenomena other than crime. Our society has clearly mandated such study within academe, and criminal justices have indicated their willingness to devote their professional lives to it. Such programs should prosper.

(2) Students, in large numbers, want to study crime, justice, and mechanisms of social control. Sufficient interest exists to justify complete curricula dealing with these topics. Moreover, such interest will encourage personnel in the criminal justice system to enroll in academic programs that might not otherwise enroll, and will attract intelligent, educated personnel to select careers in criminal justice. Criminal justice curricula will do more to improve the quality of criminal justice manpower than will other types of programs.

(3) The existence of structurally separate departments and schools of criminal justice will attract scholars intending to devote their primary efforts to criminal justice matters. Also, such social and organizational structures encourage a focusing of basic research and other scholarly activities around criminal justice issues. Such activities become relegated to a secondary priority by disciplines involving broader concerns, and by individual scholars for whom such interests

compete with non-crime related matters. It is for these reasons that graduate programs in criminal justice take on major significance.

(4) Criminal justice faculties tend to be more agency oriented than do many other academics. Such interchange between the academic institutions and the community benefits both. Of particular importance is the criminal justice's greater propensity to address matters of pragmatic concerns, such as program evaluation, efficiency and effectiveness in the criminal justice system. While other scholars will tend to limit their interest to abstractions and contributions to knowledge generally, criminal justices will tend to include *not only* such matters, but also address ways their research can be used to immediately advance the delivery of services providing social control and justice. Moreover, they are more likely than scholars from other disciplines to conceptualize their responsibilities as involving a change agent role.

(5) The social significance of crime and delinquency justifies the existence of a separate academic department or school focused on such matters, particularly at the graduate level.

If other academic disciplines or structures could bring about the social change called for by the Sherman report, it should have already occurred, for such programs existed for many years before the growth of criminal justice education. Moreover, it is by the use of such organizational structures that other groups have achieved academic goals. Sherman (1978) noted "If a specialized program in police science or criminal justice is offered at all, it should be given the kind of autonomy that other professional education programs have used to flourish intellectually" (p. 15).

Misner (1978) has indicated our profession is at the "end of the beginning." The many programs of good quality attest to the accuracy of his observation. If North Carolina is representative, however, hard decisions should be faced concerning those programs not evolving into sound academic programs. Criminal justice is an academic discipline in the sense economic or political science is an academic discipline. For this to be completely accepted by our colleagues, however, we must be willing to police our own ranks. In that task, the courage of the National Commission to acknowledge the shortcoming of some criminal justice programs and the desirability of a scholarly per-

spective rather than technical one will be useful. Such recommendations, however, are nothing more than the arguments many of us in the field have loudly acclaimed for years.

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Speech-Language Services for Youthful and Adult Offenders

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PURSUANT to the implementation of Section 4 of Public Law 94-142, Education for All Handicapped Children Act of 1975, specific services to individuals confined to correctional facilities are mandated; included is the delivery of speech, language, and hearing services. Specifically, the Act states that instructional and related services must be provided to handicapped persons in hospitals and institutions as well as public and private schools; speech pathology and audiology are defined as supportive and/or related services.

The literature, for the most part, does not document the need for inclusion of programming for the communicatively handicapped, not because such a need does not exist but because little research has been directed toward the communicative needs of juvenile and adult offenders. Those studies which have been completed suggest that the incidence of communicative disorders among this population exceeds that anticipated within a comparable nonincarcerated population. It is estimated that debilitating communicative disorders affect 4 to 5 percent of the general population (Travis, 1957). In two studies seeking incidence data, the range of disability was from 52 percent among incarcerated adult offenders (Staggs and Luebben, 1975) to 84 percent among youthful offenders (Taylor, 1969). Assuming that these findings would be paralleled had additional research been conducted with this population, it can be seen that a need does exist for the delivery of speech, language, and hearing services to incarcerated and paroled offenders. It is the purpose of this article to present information about communicative disorders to correctional practitioners so that they might be better prepared to understand such problems and seek appropriate services for offenders so afflicted.

Definition of Terms

Prior to proceeding, a discussion of terms used in the field of speech-language pathology and audiology and information related to the diagnosis and management of communicative disorders are

necessary. Communication refers to "any means by which an individual relates experiences, ideas, knowledge, and feelings to another"; this encompasses the receptive and expressive modes of speech, sign language, gestures, reading, and writing. (Nicolosi, et al., 1978). Language, an accepted, structured symbolic system, permits communication to transpire between individuals for whom these symbols have common meaning. Speech, the expressive form of oral language, involves phonation, articulation, and rate and rhythm; auditory sensitivity is prerequisite to the development of adequate speech and language patterns.

Disorders of communication occur when speech and language deviate from the accepted standards in terms of intelligibility, linguistic quality, rate, or vocal characteristics. An articulatory disorder refers to a problem in the production and/or connection of speech sounds; an individual with such a disorder might say "thun" for "sun" or "wabbit" instead of "rabbit." Linguistic disorders are identified when the individual is unable to understand or use symbols in the commonly accepted manner; such disorders may occur in the recognition, association, or generation of the semantic, morphological, syntactic, or pragmatic areas of language. These differences or disorders may be functional or organic in origin and may range in severity from relatively mild deviations to those which render meaningful communication impossible.

Although the rate of speech varies extensively, abnormalities of rhythm may be identified as stuttering. By definition, stuttering is:

a disturbance in the normal fluency and time patterning of speech characterized by one or more of the following: (a) audible or silent blocking; (b) sound and syllable repetitions; (c) sound prolongations; (d) interjections; (e) broken words; (f) circumlocutions; or (g) words produced with an excess of tension. (Nicolosi, 1978).

Disorders of voice may be observed in terms of pitch, quality, and intensity differences and may result from organic or nonorganic factors. In the

absence of elaborate instrumentation, diagnosis of vocal disorders requires subjective judgments which often lack universal agreement. As a result, it is not unusual for minor vocal deviations to remain undetected.

A final area of communicative disorders is hearing impairment. Like other problems, auditory disabilities may range in severity from slight losses to deafness. The age at which hearing impairments occur and the severity of such losses are important considerations in assessing their effect on communicative behavior. For example, a child with congenital deafness will present a much more serious deficit in communication than the individual who loses his hearing after language has been established.

In summary, disorders of speech, language, and hearing may present themselves in a variety of ways and in differing degrees of severity. Minor deviations may have little effect on communicative behavior; on the other hand, more serious problems may interfere with psychological and social adjustment and educational and vocational success.

Diagnosis and Management

Evaluation of the individual with a communicative disorder involves both subjective and objective techniques. The speech-language pathologist may employ standardized testing instruments to identify and assess linguistic abilities; regardless of the outcome of such objective methods, however, observation and analysis of the individual's ability to receive, integrate, and generate oral language in his daily living must be considered. With regard to articulatory competence, too, test results must be supplemented by observation of conversational speech. Diagnosis of stuttering in children is sometimes difficult; adolescents and adults present fewer diagnostic problems. Typically, these individuals have developed complex patterns of dysfluency and may display concomitant behavioral deviations. Assessment of stuttering tendencies should be made in a variety of communicative contexts over a representative period of time. Similarly, diagnosis of vocal deviations may require several diagnostic sessions and consultation with medical personnel. The greatest objectivity in the evaluation of persons with communicative disorders is obtained through audiological assessment; sophisticated instrumentation permits specific and precise assessment of hearing sensitivity.

In general, the determination that a communicative disorder exists is made on the basis of both subjectively and objectively obtained information. The critical questions to be answered in arriving at such a decision are whether or not the individual's communicative abilities are similar to those of others his age and whether or not his communicative abilities permit him to function in a variety of environments. If the individual displays speech and language patterns characteristic of those younger than he, intervention may be warranted. Similarly, the individual whose speech and language patterns limit his communicative effectiveness to a relatively small core of listeners may be in need of habilitative/rehabilitative services.

Once a communicative disorder has been identified, a number of therapeutic approaches are available. Typically, therapy is conducted on an individual basis; in some instances small group therapy may supplement individual work. Commercial programs for the treatment of stuttering, articulatory disorders, language problems, and vocal deviations provide highly structured means of approaching these communicative disorders; such programs may be utilized with the adolescent or adult with these defects. An alternative to the use of commercial programs is the establishment of an individual therapeutic plan, based on the client's disability. In most cases, the speech-language pathologist would combine these approaches in order to best meet the client's communicative needs. For example, the dysfluencies of a stuttering client may be approached in the following way. Initially, the client must recognize that he has a problem and must believe that he can learn to control his stuttering. Next, the client and clinician would identify the characteristics of the former's stuttering behavior and determine which area should receive immediate attention; at this point, a commercial program might be selected which would assist in a systematic attack on that behavior. Simultaneously, the client and clinician might explore the individual's emotional reactions to his problem and discuss more appropriate responses. As the client gains some control over his stuttering behavior, appropriate practice forums would be found; the soon-to-be released incarcerated adolescent might role-play interviewing for a job, for example. The important point here is that the experiences must relate to the individual's current and future

communicative activities if they are to be meaningful.

In summary, both the assessment and management of the communicatively disordered client must be handled on an individual basis. Although commercial tests are available to assist the speech-language pathologist in diagnosing the client with a communicative disorder, such assessments must be supplemented by observation and should result in an accurate estimate of the individual's ability to communicate in his immediate environment; in addition, the future communicative needs of the client must be projected. In delivering services to the communicatively disordered individual, similar criteria must be utilized. The techniques and strategies employed must have some relationship to the client in his present environment and should prepare him to function adequately in future communicative situations.

Delivery of Services Within Institutions

PL 94-142 mandates that institutions housing individuals between the ages of 3 and 18 respond to their handicapping conditions with appropriate therapeutic intervention. Research in the area of incarcerated delinquent boys suggests that the incidence of communicative disorders exceeds that anticipated within a nonincarcerated population in a similar age group. That these youths are troubled is evidenced by their incarcerated state; if the communicative disorders presented by such boys contribute to their delinquent tendencies, then these problems must be addressed.

Time limitations preclude elaborate long-range therapeutic intervention; most youths are incarcerated for less than one year. Some communicative disorders can be managed within this time frame, however. With the assistance of a speech-language pathologist, a boy with an articulatory disorder might be able to correct this defect in several months; youths with vocal disorders might be medically evaluated and, with instruction from the speech-language pathologist, relearn appropriate phonatory habits. Boys presenting language differences and/or disorders and fluency problems require careful assessment and long-term intervention. With these youths, the function of the speech-language pathologist might be confined to diagnosis rather than intervention.

The speech-language pathologist working in an institution for delinquent and dependent youths would be involved in the intake process. Each boy would be seen by the speech-language pathologist for an initial assessment; due to the degree

of anxiety that may accompany the boy's adjustment to his confinement, the initial meeting might be limited to basic screening procedures. The speech-language pathologist would talk with the boy in order to determine if any problems in the areas of articulation, fluency, or voice existed; clinical judgments of linguistic competence would be made and the youth's hearing sensitivity would be assessed. If no problems were identified, a report to that effect would be prepared and included in the intake summary. Conversely, if a communicative disorder were suspected, arrangements for a complete evaluation would be made immediately; medical consultations would be sought if indicated. Expedience in conducting the evaluation and in making referrals is essential since many institutions employ indeterminate sentencing procedures.

As noted at the outset, diagnostic techniques in the area of speech-language pathology involve both objective methods and clinical judgments. For the purposes of obtaining observational information, the confines of an institution provide an ideal setting. For example, the boy with dysfluent speech could be observed in a variety of settings; not only could the speech-language pathologist assess his fluency in a one-to-one situation, but he/she could also observe the boy's rhythm patterns as he interacted with peers in the classroom or in his work assignment and with staff members. A more complete picture of the youth's fluency could be obtained and appropriate strategies for therapeutic intervention could be selected. In the case of the boy displaying language differences and/or disorders, similar opportunities for observation and indepth evaluation would be possible. In short, a major objective of the speech-language pathologist during the youth's confinement would be a comprehensive evaluation of his communicative abilities and recommendations for intervention. These recommendations would be included in the boy's Individualized Educational Program (IEP); such programs specify therapeutic goals and objectives, strategies for intervention, and methods for assessing achievement of the objectives. An IEP would be developed by the speech-language pathologist, along with the youth, his parents or surrogate(s), and appropriate institution personnel. Implementation would begin immediately after the IEP meeting; in the event that the objectives and goals were not met within the boy's confinement, the IEP would be sent to the local educational agency

so that duplication of effort could be avoided. As indicated previously, the greatest contribution of an institutional speech-language pathologist might be in the evaluation of youths with communicative disorders, with less emphasis on rehabilitative/habilitative efforts. In the future, it is assumed that such boys will come into the institution with comprehensive evaluation reports and the speech-language pathologist will be able to proceed immediately with intervention in compliance with the IEP. Until such time, however, assessment and development of the IEP should be the focus.

In institutions for adult offenders, time limitations may not play a significant role. As with the incarcerated youth, a comprehensive diagnosis should be considered prerequisite. Referrals to other professionals should be made expeditiously so that intervention can proceed. Although IEP's are not required, the speech-language pathologist would devise a systematic therapeutic program and implementation should begin as soon as possible. It is important that the problem be discussed with the offender and his consent obtained prior to intervention.

Community Resources

Intervention should not be terminated when a youth or adult offender leaves the correctional institution. As indicated above, the speech-language pathologist may only be able to complete a comprehensive diagnosis before the individual is released. In the instance of juveniles, followup work may be accomplished in the educational setting if the youth returns to school. For those individuals who do not have access to free services as mandated by P.L. 94-142, alternatives are available.

Correctional practitioners who are aware that persons under their supervision are in need of speech, language, and/or hearing services should consult the yellow pages of their local telephone directories for the location of speech and hearing clinics. Many large cities and some small towns have community speech and hearing clinics; fees are normally assessed for services rendered in such agencies. In addition, a growing number of hospitals have staff speech-language pathologists; again, a per-session fee for services is charged. Many universities operate speech, language, and hearing clinics as a part of their training programs in speech and language pathology. In such settings, the clinical work is usually done by students under supervision and a small fee is

assessed; in most cases, clients are not refused services because of an inability to pay. Speech-language pathologists are also involved in private practice and may be listed in the telephone directory; fees charged by such practitioners may be prohibitive, however. Another source of information is the local public school district; by law, districts must arrange to have their communicatively impaired children seen by a certified speech-language pathologist and some of the professionals may agree to see clients on a private basis. Public school speech-language pathologists might also be able to refer clients to service agencies in the community. An excellent informational source to the correctional practitioner is the American Speech-Language-Hearing Association (ASHA). Annually, the Association publishes the *Guide to Clinical Services in Speech-Language Pathology and Audiology*; listed in the Guide are both accredited and nonaccredited agencies, their locations, directors' names, and referral specifications. The Guide may be purchased from the American Speech-Language-Hearing Association, 10801 Rockville Pike, Rockville, Maryland 20852, for \$8.00. Persons wishing information about service availability in a specific area may contact ASHA.

The transition from treatment in an institution to a public or private facility should be made without difficulty. Reports from the institutional speech-language pathologist should be obtained after consent is given by the client. Since speech, language, and hearing clinics are somewhat protective environments, the client should encounter no problems in relating to this setting. It will be necessary for the client to practice newly learned communicative skills in a broader environmental context but the transition should be carefully structured by the speech-language pathologist to insure a successful experience.

With regard to perceived anxiety which may surround the treatment of an adult or adolescent offender, it should be emphasized that the professions of speech-language pathology and audiology are dedicated to rehabilitation. Students receive training in psychology, as well as their specific area of interest. As professionals, they abide by a code of ethics that prevents discrimination against any group of individuals. It should not be any more difficult, therefore, for these individuals to work with convicted public offenders than with emotionally disturbed or mentally retarded children, cerebral palsied youths, aphasic

adults, or just ordinary individuals with lisps. Further, unless it seems to be in the best interest of both the client and the speech-language pathologist, the fact that the client is an offender might not need to be revealed.

Summary

It is not suggested that remediation of communicative disorders among troubled individuals will solve the immense problems of juvenile and adult crime; there are indications, however, that the incidence of such disorders among incarcerated offenders is significantly higher than among nonincarcerated individuals. Since Federal legislation now mandates that all children between the ages of 3 and 18 are entitled to free and appropriate special education, whether in the school setting or in institutions and hospitals, it is important for institution officials to demand such services for incarcerated youths. At least two states specify compliance with PL-142 in their plans for special education; both Kansas and Illinois allude to the provision of such services to adolescents confined to correctional institutions. All other states must recognize the needs of handicapped incarcerated youths and respond to their communicative disabilities. Similar attention should be given to adult offenders with communicative disorders. Treatment should be available within institutions for such individuals; further, community resources should be explored for postinstitutional followup.

Crime and delinquency are significant problems

in today's society. Large sums of money are spent in attempting to prevent crime through determination of those factors which may lead to such antisocial behavior. If disordered communication is one of these factors, then implementation of institutional programs to assess and remediate such disorders is necessary. PL 94-142 recognizes that handicapped youths must be provided access to all necessary services; specified are those services provided the speech-language pathologist. Adult offenders, too, should be given the opportunity to overcome any disabilities they may present. Through improved communicative skills, incarcerated youths and adults would be better prepared to function as independent and productive citizens.

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WE SHOULD always keep in mind that the community has a full-time impact on the offender. The offender is born, lives, and dies within it. To what degree we have a pulse on this environment and can utilize its resources will affect how well the offender can adjust to the demands made upon him.

—HAROLD B. WOOTEN

Victims and Delinquents in the Tulsa Juvenile Court

BY BURT GALAWAY, PH.D., MARGIE HENZEL, GLENN RAMSAY, AND BART WANYAMA*

IN 1975 a victims program was established in the juvenile court in Tulsa, Oklahoma. The program was established to assist in determining financial loss and bringing about restitution to the victim, to assist victims in receiving recovery of property from the police department, to personalize crime by bringing the victim and the offender together so offenders see that people are affected by their actions and for victims to see offenders as real persons.

This article presents a description of the operation of the victims program. To provide the description, data were collected from official agency files for all victim cases which were opened and closed between December 1, 1975, and November 30, 1978. Data were retrieved from the files of the victims as well as the files of the offenders who had committed offenses against the victims; this involved a group of 251 victims and 291 offenders. The analysis describes characteristics of offenders who participated in the program, characteristics of victims, and the nature of requirements imposed upon the offenders in terms of monetary restitution, community service, and meetings with victims. This analysis, of course, simply describes the characteristics of victims and offenders who participated in the program during this time frame; it does not provide a basis for determining the types of offenders who are and are not referred to the program. To accomplish this, a study was made of all youth who received their first delinquency adjudication in the Tulsa juvenile court during 1978; comparisons were made of those who were and were not referred to the victims program.

The Victims Program

The victims program was established at the request of the juvenile court judge in April 1975. The program is staffed by two full-time coordinators who receive referrals from either the judge or referee both of whom spend full time with

juvenile court work. There are six goals for the victims program:

(1) To determine the financial loss to the victim and to bring about some payment of restitution.

(2) To develop a vehicle through which recovered property may be returned to the victim from the property room of the Tulsa Police Department.

(3) To personalize crime by bringing the victim and the offender together so that the offender sees that people are affected by his or her actions and for the victim to see that the offender is a person of worth.

(4) To develop through personalizing crime, treatment techniques that may be utilized so that the offender is not a recidivist.

(5) To be a resource person for the victim to aid him in receiving help from legal sources, counseling or treatment.

(6) To develop better public relations by showing an increased concern about the victim.

An underlying philosophy of the program is that restitution and face-to-face contact will increase victim satisfaction with the system, victim understanding of the youth, and will help the youth understand that they are not as inadequate as they might think. Bringing the parties together will assist victims to see the offender as a person of worth, while the offender will see the victim as a person injured and can assume personal responsibility for the injury.

The project is clearly not a diversion program but is intended primarily for youth at first adjudication. Youth are referred to the victims program after guilt has been determined at an adjudicatory hearing. The judge or referee will also suggest to youth that they should apologize to their victims and invite the victims to the disposition hearing which is typically held 4 weeks after the adjudication. Typically the victim staff will have had contact with victims prior to the adjudication hearing. Referrals to the court's intake unit are routinely screened by the victim staff to secure the names of victims and see that

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the process of documenting losses with receipts and appraisals is commenced. Additionally, the staff will assist the victims to secure release of property from police property rooms.

When youth are referred to the victims program a coordinator initially meets with each youth and their parents; this meeting will frequently occur immediately after the adjudicatory hearing and is for purposes of interpreting program requirements—restitution, community service, and apology to the victim if this is consistent with the victim's wishes. The coordinators attempt to establish a restitution plan calling for full payment of the victim's losses but, when this is clearly an excessive amount, they may negotiate an amount with the victim and develop a plan for partial restitution which is agreeable to both the victim and the offender. The responsibility for community service is discussed with the youth; some of the responsibility for developing a community service plan rests with the youth and parents who are encouraged to find a church, school, or neighborhood organization for which the youth might do volunteer work. If necessary, suggestions may be made by the victim coordinator. The youth is generally advised to maintain weekly telephone contact with the victim coordinator between the adjudicatory and disposition hearings. The victim coordinator will normally set the total hours of community service (typically 40) but leave to youth and parents major responsibility for determining the type of service and where it will be performed. A plan for restitution and community service is presented to the court at the time of the disposition hearing. Work of the victim coordinators between adjudicatory and disposition hearings is concurrent with work of the probation staff who are conducting a predisposition investigation.

At the disposition hearing the judge will make a "strong inference" that the youth should make restitution to the victim in accordance with the plan developed by the victim coordinator. Making restitution is not a condition of probation nor is it a separate action. It is a "strong inference." Originally the plan was that the victim coordinators could file a motion if the youth did not comply with the restitution plan but this has never been done. If the youth is not making satisfactory progress on restitution, he or she is usually violating other conditions of probation necessitating a report to the court and a review hearing. At the disposition hearing the court may

place the youth on formal probation but may also continue the case informally. The offenders are responsible for paying their victims directly. Neither the victims program nor other staff of the court routinely act as a financial conduit through which the youth pays the victim. In a few cases, the victim project staff have accepted checks or money orders from offenders for forwarding to victims but in most situations, the youth comes into face-to-face contact with the victim at one or more points in the process. The victim coordinator maintains telephone communications with youth, victims, and representatives of community agencies to determine the youth's progress in completing restitution requirements. If the youth does not comply with the requirements, this matter may be discussed with the youth's probation counselor, may be handled by telephone, or may necessitate a meeting in the office with the victim coordinator and youth. Typically, however, most of the work of the victim project staff is handled by telephone except for the initial meeting with the youth and parents and the contacts with the youth which occur in conjunction with disposition and review hearings.

Review hearings are held every 3 to 6 months to secure reports on the youth's progress. If restitution has been made and the youth is complying with other requirements, the case may be terminated at any review hearing. When the youth is doing well and termination occurs, the review hearing provides the judge with the chance to compliment the youth on a job well done.

Methodology

Two studies were conducted in order to secure descriptive data regarding victims and offenders who participated in the victims program. For the first study researchers from the University of Minnesota were permitted access to official agency files to assemble descriptive data. The victims project maintains files on each victim served; these files are cross-referenced to the social history files of the offenders involved with each victim. Two hundred and nineteen victim files have been opened between December 1, 1975, and closed prior to November 30, 1978. Closed means that the youth had either completed all obligations to the victim or, if not completed, a determination had been made that the obligations were unlikely to be met. Data from victim files opened after December 1 were used rather than the beginning date of the program because the first

few months were involved in program start up and the filing system was initially incomplete but had become reasonably standardized by December 1975. Additionally, this time frame provided for collection of data from 3 full years.

Data were assembled from both victim and offender files. Variables regarding the youth included age, sex, race, educational status, previous referrals to juvenile court, previous adjudications, present offense, employment status, family income, source of family income, and parents' marital status. The victim oriented variables included type of victim and amount of loss. The program oriented variables included amount of restitution ordered, amount paid, whether the restitution was in money or personal service, if victim was willing to meet youth, whether such meetings occurred, the amount of community service required, the amount of community service completed, the nature of community service and the organization which was the recipient of the community service.

This approach will provide a description of offenders and victims who participated in the program over the 3 years for which data were assembled. It does not, of course, provide any basis for determining which offenders are referred to the program and which are not. To explore this question, data were analyzed for all youths who received their initial adjudication in the Tulsa juvenile court during 1978. Data were extracted from official court records by court staff using forms supplied by the researchers. To avoid overburdening staff with the data collection effort a limited number of variables were used including type of offense, presiding judge, age of youth, race of youth, family income, previous referrals to the juvenile court, and whether or not the youth was referred to the victims program. These data were analyzed by using referral to the victims program as a dependent variable and determining if any association could be found between any of the other potential independent variables and referrals to the victims program.

Youth, Victims and Program Requirements

Youth Characteristics.—The analysis involved descriptions of 291 delinquents who were associated with victims whose cases had been opened and closed between December 1, 1975, and November 30, 1978. The youth were predominantly male (80 percent) and Caucasian (79 percent). Mean age was 15½ years at the time of referral; the modal age was 16. Sixty percent of the youth

had no previous referrals to the juvenile court, 16 percent had one previous referral, 11 percent had two previous referrals, and 13 percent had three or more referrals. All referrals were included, even those that were handled informally or screened out by the intake unit. Eighty-four percent of the youth had no previous adjudications in the juvenile court and 16 percent had one or more prior adjudications. The referral offenses were predominantly property offenses (94 percent); 4 percent were offenses against persons and 2 percent were status offenses. Generally, the youth committed the delinquent act with codefendants; only 8 percent of the youth had no codefendant, 53 percent had one, and 39 percent had two or more codefendants.

The largest group (44 percent) of the youth came from families with an annual income of \$10,000 or over; 32 percent were from families with an annual income of \$5,000 to \$9,999 and 24 percent from families with an annual income of less than \$5,000. Eighty-four percent of the youth came from families in which the source of family income was earnings and 16 percent from families whose primary source of income was public assistance or pensions. At the time of referral, the parents of 48 percent of the youth were married and the parents of 42 percent of the youth were divorced, the remaining 10 percent were in the categories of never married, one parent deceased, or separated.

In summary, the youth served by this program during this 3-year period of time were predominantly middle adolescent, Caucasian males who had committed property offenses. The majority had not had previous referrals to the juvenile court and for the vast majority this was the first delinquency adjudication. About half of the youth come from intact families; the majority of the families depend upon earnings for support and most did not seem to be from extreme poverty situations although half of the youth did come from families with less than \$10,000 per year annual income.

Victims.—The study group consisted of 251 victims; 60 percent were individuals or households, 7 percent were owner operated business, 26 percent were managed businesses, 4 percent were schools, and 3 percent were either other governmental or charitable organizations. Of the 150 individual victims, 29 percent were women, 53 percent men, and 19 percent were both; this latter category was used for crimes against house-

holds occupied by a married couple. Eighty-six percent of the individual victims were Caucasian and 14 percent were from minority groups.

Net damages sustained by the victims were the amounts determined by the victim service staff and exclude the value of property returned by the police and insurance payments. Net losses to victims are summarized in table 1. Thirteen percent of the victims experienced no net loss and 8 percent experienced a net loss in excess of \$999 with an average net loss per victim of \$207.

TABLE 1.—Net monetary loss to victims

No loss	(36)	18%
\$1 - \$99	(106)	43%
\$100 - \$199	(39)	16%
\$200 - \$499	(24)	10%
\$500 - \$999	(18)	7%
over \$999	(20)	8%
$\bar{X}$ = \$207	(242)	100%

Restitution.—The mean loss per victim was \$207, but the mean amount of restitution order per victim was \$127. The mean actual amount of restitution collected by victims, however, was \$90. Five percent of the victims, however, received services directly from the offenders instead of monetary restitution; the 13 victims who received personal service restitution received an average of 28 hours of service from their offenders. These personal service restitution situations typically involved schools in which youth who had damaged or vandalized the school were engaged in cleanup activities; one situation, however, involved a used car lot in which three youth had stolen and damaged an expensive vehicle and subsequently made restitution in the form of labor to the business through washing and cleaning up used cars.

Two hundred and eighteen of the 291 youth had monetary restitution obligations. The average restitution obligation for each youth with restitution was \$155, although of those with restitution obligations, 63 percent had a restitution order of \$100 or less. Two hundred and one of the youth made restitution payments averaging \$129 each. Of the youth who made restitution payments, 40 percent made the payments from their own earnings, 47 percent from funds provided by their families, 5 percent from labor provided directly to the victim, and 7 percent with funds from other sources including savings or selling property such as a motorcycle.

Victim-Offender Contacts.—Both victim willingness and actual experiences in meeting offenders are summarized in table 2. Seventy-one per-

TABLE 2.—Victim willingness to meet offender

	Is Victim Willing?	Did Victim Meet Offender?
Yes	(179) 71%	(136) 54%
No	(16) 6%	(60) 24%
Unknown	(56) 22%	(54) 22%
	(251) 100%	(250) 100%

cent of the victims were willing to meet their offenders yet apparently only 54 percent actually met their offenders. Only 6 percent of the victims were unwilling to meet their offenders.

Of the 291 youth, 3.59 percent had contact with one or more of their victims as a part of participating in the victims program. Data were available for 328 delinquent-victim pairs; victim-offender contacts were known to have occurred in 57 percent of these dyads, the records indicated contacts did not occur for 22 percent of the dyads, and whether or not contacts occurred was unknown for 21 percent.

Community service.—Ninety of the youth were ordered to do 38.5 hours of community service; 75 of these youth actually did community service and completed an average of 37 hours each. Apparently when a youth begins community service there is a very high probability of completing the mandated number of hours.

The nature of the community service work was not recorded for the 28 of the 75 youth who did community service. For the remaining 47 youth, 20 did general cleaning and janitorial work, 8 did ground maintenance including picking up trash in parks and along streets, 8 were involved in library or office work, 9 worked directly with people (babysitting, assisting with a baseball team, doing chores for an elderly couple, and working in a preschool), and 2 pumped gas at a police garage. Recipients of the community service included schools (12 youth), libraries (11 youth), churches (10 youth), nursing homes (6 youth), museums (3 youth), zoos (2 youth), other social service agencies (4 youth), and individuals (4 youth).

Summary.—The typical youth referred to this program during the 3-year period of time under study was a male Caucasian, middle adolescent who had committed a property offense, generally they came from family backgrounds of moderate incomes from which the primary source of income was from earnings. The majority of victims were individuals or households. The mean loss experienced by victims was \$207, the mean amount of restitution ordered was \$127, and the mean amount actually paid to each victim was \$90. Over half of the victims (54 percent) met

with their offender although 71 percent expressed a willingness to do so. The youth who had restitution obligations had an obligation of \$160 per youth and paid an average of \$124 per youth. About a third of the youth had a community service obligation which averaged 40 hours; youth with community service obligations completed a mean of 38.5 hours.

Initial Adjudications and Referral to Victims Program

A description of the characteristics of youth, victims, and programs imposed over 3 years of the victims project does not provide much guidance as to what type of youth are likely to be referred to the program. To accomplish this a comparison was made of all youth who received their first adjudication in the Tulsa Juvenile Court during 1978; comparisons were made between those who were referred to the victims' program and those who were not on a limited set of variables—age, sex, family income, previous referrals to the juvenile court, offense, race, and whether the hearing was before the referee or judge. In 1978, 367 youth received their first adjudication in the Tulsa Juvenile Court; 99 were referred to the victims' program.

No differences were found between the group referred and those not referred on the variables of race, previous referrals to the juvenile court, and family income.

The vast majority of the referrals to the program were property offenders—95 out of the 99 referrals. Further, 37 percent of all property offenders who received their first adjudication in the Tulsa Juvenile Court were referred to the victims' program compared to 14 percent of the offenders who committed crimes against persons, 4 percent of the drug and alcohol offenders, and none of the status offenders. Because a sizeable number of the property offenders (63 percent) were not referred to the program, an additional analysis was done examining the referral or non-referral of the property offenders on the variables of race, age, family income, and whether or not the youth had been previously referred to the juvenile court. Within this subgroup, no differences were found between referral to the victims' program on the variables of age, race, and family income; a slight relationship was found between the variable of previous referral to the juvenile court and referral to the victims' program. Forty-three percent (40) of the youth with one or more

previous referrals to the court were referred to the victims' program compared to 34 percent (55) of the youth for whom this was the first referral to the court. The group of youth who had previous referrals to the juvenile court were somewhat more likely to be referred to the victims' program than those property offenders who had not had previous referrals to the juvenile court. Since none of these previous referrals to the juvenile court had resulted in adjudication, the judge and referee may be somewhat more likely to refer youth with previous referrals to the court to victims services as compared to those youth who had not had previous referrals to the juvenile court at first adjudication. Those youth who have had previous referrals to the juvenile court and were handled informally may be perceived to be in need of a more severe sanction.

TABLE 3.—Referral to victims program by offense

Property Offenses	Offenses Against Persons		Drug, Alcohol Offenses		Status Offenses		Other	
	No.	%	No.	%	No.	%	No.	%
Referred (95)	37	(3)	14	(1)	4	(0)	—	(0)
Not Referred (159)	63	(19)	86	(25)	96	(33)	100	(33)
	(254)	100	(22)	100	(26)	100	(33)	100

TABLE 4.—Referral to victims program by sex

	ALL OFFENDERS				PROPERTY OFFENDERS			
	Male		Female		Male		Female	
	No.	%	No.	%	No.	%	No.	%
Referred	(89)	31	(10)	13	(85)	39	(10)	26
Not								
Referred	(198)	69	(69)	87	(131)	61	(28)	74
	(287)	100	(79)	100	(216)	100	(38)	100

$X^2=9.7$; 1 d.f.; $\alpha=.0019$ $X^2=1.82$; 1 d.f.; $\alpha=.177$

When all offenders are considered (table 4), boys appear to be somewhat more likely to be referred to the victims' program than girls; 31 percent of the boys compared to 13 percent of the girls were referred to the victims' program. To some extent this might be explained by the fact the girls are more likely to commit status and other offenses for which there are no victims. An examination of the referred and nonreferred cases by sex was made for only property offenders and indicates some reduction in the possible male-female difference in referrals. Thirty-nine percent of the male property offenders compared to 26 percent of the female property offenders are referred to the victims' program.

Other than the nature of the offense and, possibly sex, the only other variable which is associated with referral or nonreferral to the victims' program was whether or not the adjudicated

TABLE 5.—Referral to victim program by presiding judge

	ALL OFFENDERS				PROPERTY OFFENDERS			
	Judge		Referee		Judge		Referee	
	No.	%	No.	%	No.	%	No.	%
Referred	(42)	35	(57)	25	(41)	58	(54)	31
Not Referred	(77)	65	(175)	75	(30)	42	(122)	69
	(119)	100	(232)	100	(71)	100	(176)	100

$X^2=3.95$; 1 d.f.; $\alpha=.05$ $X^2=14.53$; 1 d.f.; $\alpha=.0001$

cation was before the judge or referee (table 5). The judge has a tendency to use the victims' program in a higher percentage of initial adjudications than the referee; 35 percent of the judge's cases were referred to the victims' program compared to 25 percent of the referee's cases. This association was further examined for just property offenders to check whether this difference might be explained by the possibility that the referee handled a higher proportion of status offenders and other offenders without victims. For this subgroup, the primary group from which referrals came, the difference in likelihood of referral by judge or referees was even more marked. Fifty-eight percent of the property offenders adjudicated before the judge were referred to the victims' program compared to the 31 percent of the property offenders adjudicated before the referee.

In summary, as expected, property offenders are more likely to be referred to the victims' program than nonproperty offenders; only a minority (37 percent) of property offenders are actually referred. No differences were found between the referred and nonreferred groups on the variables of age, prior referrals to the juvenile court, race, age, and family income. Initially boys appeared to be more likely to be referred than girls but when this association was examined controlling for offense the strength diminished. A significantly higher proportion of the offenders who are adjudicated before the judge are referred compared to those adjudicated before the referee.

Summary and Conclusions

This research is limited to a program operating in a single jurisdiction and for a single period of time. The data were collected from official records which are generally considered to be poor data sources for research purposes. The record-keeping system was not entirely consistent and complete nor was it established for research purposes. The data collection, however, was done by two trained researchers who were in continuous communication with each other through the data collection effort to consistently resolve coding

and other questions as they arose. Despite these limitations it is possible to draw some conclusions regarding the operations of the victim services program in Tulsa.

The program is able to involve a substantial number of victims and offenders with a very small staff. The widespread use of the telephone rather than more labor intensive interviews and home visits contributes to the apparent efficiency of the program. While cost assessments were not a part of this research, on the surface this appears to be a fairly cost effective program.

Victims seem quite willing to be involved with their offenders although the program was not fully utilizing this practice; much higher numbers of victims indicated willingness to meet offenders than actually met offenders.

The losses experienced by the victims appear to be quite modest; in most cases full restitution should not create an unreasonable demand upon an adolescent offender. However, the goal of full victim repayment is not being met because of attrition in the restitution amount; the amount ordered is considerably less than the total victim losses and the amount actually paid is even less than the amount ordered.

The comparatively small number of youth who have community service obligations appear generally to complete these obligations. This may partially be explained by the fact that the youth are actively involved in the selection of their community service site and the nature of the community service.

While the program serves primarily white males of middle adolescence from families in which the primary source of income is earnings, there is not any apparent bias in referrals to the program based on family income, age, or race; there may be a slight tendency to refer a higher percentage of boys than girls to the program.

Less than half of the property offenders who were first adjudicated in the juvenile court are referred to the program. Further, there is a clear difference in the rate of referrals between the judge and the referee with the referee less likely to make referrals. Further, the referee handles a much higher number of cases than the judge which may account for the overall low referral rate.

The program itself appears to be a strong program capable of responding to a substantial number of youth and victims with modest re-

sources. Some of the steps that might be taken to strengthen the program would be to more systematically require victim-offender contacts especially in light of the victim's expressed willingness to meet offenders, to examine the reasons for the attrition in the restitution amounts especially in the ordering of significantly lower restitution amounts than victim losses and in

the further attrition between the amount ordered and the amount actually collected, to consider possible increased use of community service in light of the evidence that this sanction, when used, is generally being completed, and to develop more explicit policies regarding referrals of youth to the program in order to bring about a more consistent practice between the judge and referee.

Toward Job-Related Inservice Training in Corrections

Reflections on Designing Training Programs

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INSERVICE training in an organization is one of a series of activities carried on by the administration to develop the staff. In line with staff selection, evaluation procedures of staff, the grading scale, staff promotion policies, and the day-by-day staff supervision, inservice training is to be seen as part of staff management in a given organization. Inservice training has limited effectiveness in turning staff who lack the basic knowledge, skills and attitudes for the job, who are demoralized and torn by line-administration controversies, who are underpaid, undermotivated, under or oversupervised, into a viable unit ready to act and capable of acting. This is not to say that a well-constructed inservice program, well delivered and well received by the staff, may not have some side effects on staff morale and may not improve staff management relations; but these effects may last only as long as the inservice program lasts. After completion of the training experience, once the staff is again facing the work conditions, with occasionally even more critical views sharpened by some of the insight learned in the training program, these side effects may quickly wear off.

What Is Not Inservice Training?

Inservice training is to be distinguished from basic professional training. Academic training

for personnel of the criminal justice system has recently been a topic of some discussions. This article will refer to the less discussed topic of inservice training programs in corrections.¹ Basic training is geared to turn a nonprofessional into a professional, a nonpolice officer into a police officer, and an untrained probation officer into an academically trained caseworker specializing in the rehabilitation of delinquents through a probation period. Such training is usually given outside the agency or organization (staff colleges, schools of social work, departments of criminology or psychology in universities) and is limited by time.

Introductory courses (for newcomers), given to individuals or to groups, propose to help them find their way in the new environment. They strive to help these newcomers adapt their professional capacities to this new setting, to become aware of the particular value system, social climate, behaviour norms and the internal formal and informal power structure. It is the last point which is of vital importance if one is to start his career with the organization on the right foot. He may not be told verbally the official and unofficial power distribution, but he may be given clues and hints which, when correctly perceived, will help him to avoid pitfalls as a result of ignorance.

Professional supervision in correctional services given periodically by supervisors to individual workers or to groups relates to specific, acute

¹ Joseph J. Senna: *Criminal Justice Higher Education—Its Growth and Directions. Crime and Delinquency*, 20/4 (October 1974) 389-397. Fred I. Klyman and Thomas A. Karman: *A Perspective for Graduate Level Education in Criminal Justice. Crime and Delinquency*, 20/4 (October 1974) 398-404.

problems. Supervisors translate general policy statements of the administration, of existing laws or court decisions, into individual decisions with regard to a specific case or a particular situation. Supervision connects the field with administration by keeping open the lines of communication between the field and the administration. Being attuned to the specific qualifications and limitations of the individual worker in dealing with a specific situation gives supervision an element of individual tutoring. More than the other types of training, it has an element of control over the use of the organization's resources by the worker, including the worker's time.

Purposes of Job-Related Inservice Training

There are a variety of situations with which professional staff in correctional services have to deal requiring inservice training. New methods for familiar situations are developed in corrections or other people-processing organizations: family counseling, or reality therapy for probation or parole officers, group probation in addition to or instead of individual probation, behavioural modification or "token economy" in institutions. Legal or administrative changes make the staff face a new type of service recipient: aftercare being part of the probation officer's caseload, changed age limits for juvenile, e.g., adding 16 to 18-year-old age groups to the juvenile caseload such change adds a new type of situation which the juvenile courts and juvenile institutions are forced to deal with. The emerging of more and different services and agencies in the community may require familiarizing correctional staff in a systematic way.

These examples refer to changes external to the unit to be trained. There exists a need to provide inservice training in response to internal changes as well, to "brush up" old or rarely used knowledge and skills to facilitate an exchange of experiences or expertise accumulated in certain sections of the service or the organization which could be utilized in other sections (e.g., dealing with a particular ethnic group which is growing rapidly in the area covered by the service). The rational purposes of inservice training are to impart the potential trainees with new knowledge, to train staff with new skills, and to effect attitude change whenever existing attitudes in the staff or in significant sections of it interfere with the delivery of service required.

Openly Stated Purposes and Hidden Purposes

Inservice training as filling knowledge gaps recognized by staff and administration, makes it theoretically an easy undertaking to assess the training content and to achieve administration and staff readiness to have the program run. The selection of training methods, the training of program, spacing of sessions, would "flow" smoothly once the content has been defined, and its characteristics as well as the characteristics of the trainees have been assessed.

In reality the situation is different:

(1) A training program of large units requires a specialized training unit which in the course of time develops its own dynamics.

(2) Administration and staff may use the inservice training program for needs other than filling knowledge gaps.

The existence of a specialized trainer or training unit will usually improve methods of delivery of the training content, and the quality of content, regardless of whether the training staff grows in the service to be trained or joins the organization from the outside. But the relevance of the content to be taught, the coordination of training with the need of it by the field could be subordinated to the organizational needs of the training unit, whether it is a staff college, a training centre or an individual trainer. Such a training unit out of its organizational needs may prefer to deliver standard programs after such a program has been developed and tested a few times rather than adjust it to the ever-changing training needs of the field and trainees and administration interests. Another inherent need for a specialized training unit is to academize the training program by hiring academic teachers, and/or by striving for academic recognition of the total training program or at least some parts of it. The trainee who completed the program and who desired to either go or return to a university would be given credits for such a program.

This is not to say that the existence of a specialized training unit or a cooperation with universities or university teachers would not improve the quality of the training program. Such cooperation, however, should leave the training unit constantly open to the ever-changing needs and priorities of the field of corrections in which it is dedicated to serve.

Administrative behaviour in corrections, like any administration behaviour, is often deter-

mined by more than one purpose: keeping a prisoner waiting to meet a correctional counselor has the rational purpose of utilizing to the full expensive time of the counselor, avoiding waste of his time through waiting. In fact, however, this waiting may give the counselee a feeling of insignificance. The intake procedures for a new prisoner, including undressing for a medical examination, taking a shower, change of clothing, etc., are all necessary procedures for the orderly acceptance of a new prisoner. In addition, these and similar procedures produce in the prisoner a state of mind conducive to a faster change towards his new role; his preprison personality is symbolically eliminated and changed into his new role.

In addition to its stated purposes of conveying new knowledge and skills to trainees, inservice training may serve additional purposes. These purposes are often partially hidden from the conscious mind of the administrator and can be stated as side effects. These "side effects" are often the real purposes of the administration clad by the initiator-administrator with a rational purpose. Their absence may prevent the program from being initiated from the beginning, they are more centrally located than often acknowledged.

When are inservice training programs initiated for these "hidden" purposes? One of the major indicators for job-related motivation is the evaluation of the program after it has been run and its effect on job performance. The total absence of such evaluation, or even the absence of any "output" evaluation measuring the effect the program had on the performance of the staff, hints at hidden purposes. Another indicator—the planning of the training program without any carefully prepared "diagnosis of and need" preceding the program.

Hidden Purposes

(1) *Status of service organization:* The existence of a well organized inservice training program may enhance the status of the service organization. The correctional field, like many technological and human behaviour fields, is experiencing a research and knowledge explosion, primarily as the result of academization. Not all new knowledge is really new knowledge, while not all knowledge is applicable and not all applicable knowledge is actually applied. The under application of applicable knowledge and skills is

typical to other noncompetitive bureaucracies. Their low accessibility to new content reflects their concern about their internal stability rather than their output in the field. On the other hand the open admittance of not caring about the new development would bring about status loss of the correctional service within the broader service community as well as within their own service staff.

(2) *Staff Morale:* The delivery of an inservice training program, well delivered in a comfortable environment, affects staff morale if the staff feel frustrated and "low" from being overworked, underpaid and not promotable, or for being torn from internal personal clashes and strives. Participating in an intellectually stimulating learning experience, physically and emotionally removed from the day's work routine, often helps members meet and communicate in a relaxed atmosphere with each other and with administrators.

(3) *Group Cohesiveness:* Inservice training programs increase the group cohesion among staff otherwise engaged in work carried out in isolation. While prison and training school work is always carried out in close proximity of colleagues and other staff members, probation and parole officers, police officers and detached workers face their work situation alone or in a small group. Inservice training is a group experience requiring the efforts of each individual in the group so that the increased group cohesiveness and co-operation is hopefully carried over into the post-training working relationships.

(4) *Change:* An administrator, especially a new one, feels a need "to do something," to make his entrance into the organization felt. However, often he is unable to bring about changes in the long established work routine without encountering resistance from certain sectors of the agency. The launching of an inservice training program related to the job but general enough not to interfere with the existing routine and balance is easily viewed as a good way out. Even though such manoeuvring is useful, it may be felt by the staff. The response to a sense of having been manipulated may be distrust for the administrator and cynicism.

A Service Improvement Orientation in Inservice Training Programs

Fulfilling the hidden purposes may be a welcome byproduct of a training program that is

striving to improve delivery of any correctional service. It is the latter purpose which gives its rationale. Correctional services, like other service organizations, should not be compared with competitive, profit-making organizations. A welfare agency, a sanitation department or a university are not dependent on their output for existence, maintenance and growth to the same degree as a store, a factory or an army in war time. The readiness to incorporate changes in its operation lines when changes seem conducive to improved or increased output, will be higher in those organizations whose output has survival value for the organization, even when these changes require adaptation and changes of a large section of the organization. A welfare agency's existence does not depend to the same degree on the percentage of re-established clients, while a prison will not close down as a result of the high percentage of recidivists. Similarly, a probation department will not close down because of its impractical recommendations to the court, or because of its high percentage of probation violations. The maintenance of an internal stability, the avoidance of friction and conflict internally and externally have a higher significance for its access to financial and other resources needed for its maintenance and growth than these factors have for competitive organizations.

Speed of Change

Organizational and operational changes and improvements in inservice organizations in general and correctional services specifically do occur. They come, however, relatively slowly as the result of changing conceptions in the community, or as the result of findings of theoreticians and researchers and inservice training results. In contrast, a major conflict inside the organization, a scandal in which the organization is involved, a mass escape from prison, may bring about faster and more far-reaching changes and readiness to overhaul procedures and organizational setups than the more low key pressure of re-training or evaluation research findings.

This is not to question the importance of a well-designed, well delivered inservice training program. Rather it is here suggested that a more realistic proportion to the program be given.

Design of an Inservice Training Program

An inservice training program, geared towards improved service delivery, would require the following steps:

- (a) Assessment of training needs of practitioners to be trained.²
- (b) Design and establishment of training programs.
- (c) Delivery of the program.
- (d) Evaluation of the impact of inservice training program on inservice delivery.
- (e) Re-evaluation of 1 and 2 for next steps in program if a continuation of the program is considered.

Since inservice training is more targeted to the needs of a specific trainee group than the program of a professional school is, a job analysis is required to ascertain what knowledge and skills are needed, and whether the trainee has attitudes which might interfere with a successful performance.

Not all that is lacking is teachable or trainable. The needed knowledge may not exist or may require so much preparation that providing it is infeasible. Certain attitudes of the staff may be so deeply entrenched that they are seen as unchangeable, at least within the framework of a training program.

The planner of a training program may obtain the basic information concerning the needs of the trainees through observation of the staff and their performance, through analysis of job descriptions (if available), through systematic questioning of the staff to be trained, and/or formulating the policy of the service. (Could this list also include the questioning of service recipients?)

This process may sound clumsy and time-consuming. However, it should be observed that time investment prior to the launching of the training program may insure positive results.

(1) The self-reflection of the staff and job analysis by the administration may bring to both some insight into practice. Certain practices and activities which originated in the past were no longer functional but were maintained because nobody cared to question them, or administrators did not keep with latest development on practitioner level.

(2) The involvement of administration and training consumers may make the planning of the program and its operationalization more complicated. The trainer will not be as free to op-

² The Assessment of Training Needs. See Norman R.F. Maier, three of the Appraisal Interviews in *Management of Human Resources*, 1964, 311-319.

erate in his own territory. However, a training program in which both administration and training consumer were involved in formulating training needs (which does not include training method) has more changes to be perceived by the organization as something of its own rather than being imposed externally. This may have significant consequences for the implementation of trained knowledge and skills and its incorporation into daily practice after completion of the training program.

Trainer and Administrator

The cooperation between the trainer or training program designer and the administrator may require overcoming a number of possible difficulties. There is some empirical evidence suggesting a potential power conflict between the two. From the trainer's viewpoint, the request from the administrator for training content may differ from the trainer's own observation of the training needs. Certain last minute requests by the administrator may require the redesign of the training program. The trainer may be forced to replan the timing of the program (when, how long, etc.) and in turn encounter difficulties with the teachers available to carry out the program.

From the point of view of the administrator there is some potential resentment towards the trainer even when the administrator himself initiates the training program. The training program may interfere with the daily routine of the organization. In addition, the trainer represents a figure of authority to the staff to be trained. This may not be totally coordinated with the authority of the administrator. Consequently, a conflict between professional authority and administrative authority may ensue. Having successfully completed the training program and having the trained staff ready to apply some of the newly acquired skills and knowledge may require certain administrative changes (see later) which may easily interfere with the well established routine of the service.

Training content which leaves the daily routine and the organizational structure of the service almost unaffected may not be a worthwhile and job-related training experience from the outset. A few examples of an effective upgrading of correctional staff's job performance and possible effects on some administrative aspects follow.

(1) Probation officers may enlarge their area of presentence investigation as a result of a

training program which brings to their attention the idea that "peer interaction" of adolescent delinquents is an important factor in explaining delinquent behaviour as well as representing an important area for probation intervention and supervision. It may require direct contact with these peers or street corner groups in the evening hours or require indirect interference with this group through other services in the community (street corner workers, a community centre, etc.). Such a change may require changes in the working hours of probation officers (e.g., evening hours in exchange for financial compensation or a reduction of day hours) or the reduction of the investigation and supervision caseload.

(2) Training in counseling may bring to the attention of the trainees a number of biases towards certain groups of counselees. The preference or rejection of certain age or ethnic groups may require a more professional supervision of the trainees after the training program is completed or may require change in assigning cases to workers who can master their biases.

(3) Counseling and "reaching out" to noncooperative parolees can be effected through better timing of the parole officer's demands for the social adjustment of the parolee by a more realistically designed goal and by the development of a more positive transference, so as to reduce the number of parole violation cases. Instead of emphasizing a more rejective selection process, excluding the noncooperative, the area of competence of the parole officer would be enlarged. This could include an increase in the number of difficult cases. It could also require the administrator to support his staff in case of community criticism as a result of the unexpected increase of recidivism among the parolees.

(4) The development of group counseling in prison, probation or parole would require a change in criteria for the assignment of cases to staff and the allocation of proper office space for group counseling.

Change in the performance pattern of the staff, a usual outcome of an effective inservice training program, requires corresponding changes in the administrative setup of the service. The absence of such changes may reduce the practical results of such an undertaking to an exercise in futility, frustration and failure. Having the training program conducted in relative isolation from the administration may make both run smoothly but ineffectively.

After the completion of his training experience, the trainee often faces the difficult task of changing his professional performance in accordance with his newly acquired skills and knowledge. The bureaucratic environment in which he operated prior to the training has not changed correspondingly. Some trainees may struggle with this environment in order to provide the necessary space to apply the new skills or at least to experiment with them so as to make them an integral part of his job performance. Some may rationalize themselves out of this potential stress by neutralizing the new content ("this newly learned material is interesting food for thought"; "it is a bit too theoretical and needs some modification," etc.). In order to reduce the wasting of training effects, it is advised to plan training programs in such a way that two or more levels in the service are engaged in training each on subjects related to their job (e.g., probation administrators can be trained in administration, probation supervisors can be trained in supervisory techniques, probation officers trained in investigation or case supervisory methods).³ This may bring about a loosening up of over rigid procedures which may be conducive to "open up" the system for new experimentation.⁴ In such step-by-step training each level would have as one of its assignments the planning of training of the next level down.

Assessment of Training Needs

For a rational design of an inservice training program the following questions may represent a guideline:

(1) What knowledge, skills, and attitudes are required from the staff to be able to perform on a high level of competence? An analysis of the job should be available or should be obtained by staff and administration as indicated before.

(2) Which of these requirements exist among the majority of staff?

(3) What is the discrepancy between the two? What knowledge, skill or attitude is lacking?

(4) What part of the "missing competence" is not teachable in an inservice training program, for reasons to be spelled out later.

(5) Reviewing the "teachable" part, in what sequence should the content be taught? Taking into consideration the priorities requested by the

administration as well as the inherent logic of the content, which is required from the methodological point of view of the trainer or training designer?

Guidelines for the Assessment of Training Needs

(1) What are the functions that the trainee must fulfill in the course of work? With whom has he contact and what are the major objectives of these contacts? Does he have to obtain information, to convey information, or direct people or individuals? What are the decisions he has to make? What information is required to make these decisions adequately? Is this information available or has he to obtain this information from certain sources? What difficulties is he frequently encountering in obtaining this information? What skills are required? How does one interview unmotivated interviewees? How does one lead a committee? What is the proper method in writing reports? How and when does one use firearms? How does one train inmates the operation of a machine in a workshop in a vocational rehabilitation program in prison? What personal characteristics most interfere with a competent performance of the job? What knowledge, skills and attitudes are required to perform these functions?

(2) No inservice training program is offered to a trainee group which is fulfilling its tasks adequately with a degree of competence. What functions are adequately fulfilled?

(3) Certain deficiencies may have surfaced incidentally. Checking the performance of trainees by their supervisors, the staff may have complained about some difficulties in dealing with certain situations. Some negative developments in the operation of the organizations are unexplainable unless some deficiencies in the job qualifications of the staff can be seen as responsible for these developments in a probation department. Other difficulties may arise from recommendations for institutionalization and imprisonment, an increase of parole violations, and a sudden low attendance rate in some vocational or educational rehabilitation programs when participation is optional.

(4) Not all lacking qualifications are teachable—when the sex ratio of staff causes problems such a situation may only gradually change through changes in recruitment criteria, problems in operation resulting from too much ethnic closeness or remoteness between the staff and

³ Yona Cohn: Growing Space Effecting In-Service Training in a Welfare Department. *Social Work Education Reporter*, (1972).

⁴ F.T. Maim: Analyzing training needs and results. In Pigors et al. (ed.), *Management of Human Resources* (New York: McGraw Hill, 1964), 289.

delinquents, the fact that the staff is aging and therefore not flexible enough to respond to the dynamics of the work. Certain esoteric personalities among the staff may be able to deal with some situations successfully but are unable to deal with others, so that they represent a problem with which the service has to live as these people may have tenure. Some content needed for effective work may not be teachable as this content does not exist (e.g., reliable prediction formulae applicable to individuals, more systematic knowledge on biochemical factors in crime causation and crime treatment, nutrition deficiency and criminal behaviour).

(5) There is a vast array of content available, teachable and applicable if indeed this content is needed. The following list is not exhaustive but is used to illustrate the point. These are some skills which may be taught if they are missing—sharpening interviewing skills, using mechanical recording equipment, the skill needed in conducting group sessions with delinquents, in conducting committee and team meetings of professionals and staff, the use of arms and other police and criminalistic equipment, skill in writing reports, e.g., presentence reports to the court.

There are some knowledge items—new legislation in the field relevant to the worker's job; new administrative regulations; psychological and sociological knowledge enabling the worker to interpret observed behaviour correctly, to find connections between otherwise disconnected pieces of behaviour of delinquents, their families, and their peers for correct interpretations and for comprehensive and suitable presentations in reports. Other subjects include information on new resources in and outside the community which could be used on new developments in the field from various professional sources such as books, periodicals, lectures, courses available in the community.

Delivery of Training Program

The various forms of staff training are widely covered in literature. A number of often under-emphasized subjects will be discussed here:

- (1) use of reading material,
- (2) the integration between the old and new knowledge,
- (3) segments of teaching parts,
- (4) forms of training, and
- (5) the administrative location of the trainer.

Use of Reading Material

(1) The use of reading material is one universally applied method. This is the most common vehicle to transmit content. Books have affected human history, have affected their readers and their activities as well as their outlooks and emotions. Many professions expect their practitioners to be able to select their relevant literature and to keep their own professional performance in accordance with recent research findings published in professional journals. The relatively easy way is to communicate complicated content through books and journals which encourage the use of professional literature as an instrument in correction of training. This tendency is often reinforced by the trainer and/or training programmer, whose academic background makes him a member of the "reading culture." He has the experience and capacity to read intelligently and to transform selectively ideas absorbed through reading into a professional performance.

This is not necessarily a universal practice in corrections. Some professionals and practitioners in correctional services are nonreaders and are unaccustomed to change professional performance as the result of reading. They may do some professional reading, primarily to select references to reinforce their own philosophies and basic assumptions. However, when theoretical articles, research findings or descriptive writings do not conform with their own, they look for methodological weaknesses. They may be often more comfortable observing new ideas through field trips, absorbing new ideas through discussions among professions or experts rather than by reading.

This is not to say that reading material should not be used, but it should be used selectively. We may draw a distinction between research material, theoretical material and descriptive literature.

Research findings offer to the reader relatively unbiased conclusions. However, many potential trainees are not versed in research consumption. The researcher has to divide a phenomenon into researchable pieces, while the practitioner deals with this phenomenon in relation to its environment as well as to its more developed internal complexity and individual uniqueness. The single situation or case is unique; made up of many variables, not all covered in the research. Thus, the practitioner must be able to make creative use of research findings.

Theoretical papers tend to be broader in developing and using their concepts, connecting by producing abstraction issues otherwise disconnected. They are, however, more biased in their interpretation of the phenomenon and lack specificity in offering intervention methodologies.

Descriptive literature is concrete both in presenting the situation as well as how it was handled. However, such material may have a limited range of generalizability. It develops an "apprenticeship" type of learning, in its simplified applicability. It can easily be applied incorrectly as the underlying philosophy and basic assumptions may not be included in this reading material.⁵

(2) No inservice training program comes to fill an existing knowledge vacuum. The pretraining knowledge may be insufficient, biased or wrong. In any case, the trainer who strives for change-promoting training has an obligation to help the trainee not only to absorb the new but to modify the pretraining knowledge or skills. Otherwise the trainee may just maintain the more accustomed inferior knowledge and skills.⁶ ("How did you do it before?" "What if the previous approaches could be retained?" "What changes would have to be introduced?")

(3) In the teaching of new content (e.g., new legislation, new administrative procedures) the presentation of a general overview or underlying principles of the content with the intent of later providing the details is more easily absorbed. Creating a general frame makes it possible to have the various details fill out the frame and by doing so help to make the frame more comprehensible.

As to skills—newly acquired skills need immediate application in the training situation or in the field with positive or negative reinforcements following soon.

In identifying training content, consideration should be given to the fact that the absence of the knowledge and skills to be taught is felt by the trainee as a deficiency. The purpose of the training is to fulfill a need. Such considerations may interfere with the smooth and orderly running of the training program, as the content required by the trainees may require some preliminary sessions of the program to provide the

basic concepts. The relevance of the new knowledge and skills to be offered to the trainees may make the difference between a rational approach to the training program and a more ritualistic one.

(4) With respect to the specificities of offering knowledge, skills or affecting some dysfunctional attitudes, it should be noted that knowledge may be transmitted by lectures, observation trips, workshops, symposiums or film presentations preceded by an introduction guiding the film observer in focussing on relevant features. Such a presentation could be followed by a discussion of the content offered by the film. The audience could also be offered collected and selected series of taped interviews of experts if for practical reasons these experts were not available in person.

Skills are best learned when the learning is connected to immediate application, critical evaluation by trainer and colleagues and repeated a few times if possible. The need is great for responsible and autonomous experimentation with newly acquired skills in order to make these skills part of their own performance pattern. The methods may include role playing, simulated situations (what recommendation to make in a presentence report to court, "in basket" exercise for administrators, probation officers answering emergency phone calls from parents, teachers or youngsters using "hot line" techniques).

Changing attitudes by inservice training programs requires a delicate touch. Some may be of such intimate character that they should be dealt with primarily in individual supervisory sessions. A free discussion on the existence of dysfunctional attitudes could be helpful if the group of trainees is mutually acceptive and supportive. While sensitivity training ("T" groups)⁷ may help to increase self-awareness and awareness of individual "blind spots" in the perceptions of self and others it may also have some disadvantages. Participants of such training programs who feel vulnerable and insecure may be hurt emotionally or just change their defenses if such a program is imposed upon them by the trainer. It may also have the potential for damage or ineffectiveness as participants have to continue working in physical proximity after the training program is over.

Some attitudes may be changed through absorption of new knowledge. The practitioner who familiarizes himself with the life style of a particular ethnic group may change his discrimina-

⁵ G.S. Odiorne: *Training by Objectives* (New York: Macmillan, 1970), 217-249.

⁶ See Pfiffer and Fells, p. 218.

⁷ Carl R. Rogers: *Carl Rogers on Encounter Groups* (New York: Harper and Row, 1970).

Edgar H. Schein, W.G. Bennis: *Personal Organizational Change through Group Methods* (New York: John Wiley and Son, 1965).

tory attitude as the result of increased knowledge about this group. Visits, reading or lectures may help to explain otherwise incomprehensible behaviour when seen in a broader framework.

The Administrative Location of the Trainer

(5) Training programmers have to select the individual teachers from either inside or outside the organization. This selection is important as the programmer often has more influence in selecting the teacher than in selecting the content the teacher is to present and the method the teacher is going to use. Many experienced teachers have a given number of lectures they are ready to offer with relatively minor modifications and adjustments to a given situation.

Trainers are frequently limited in their selections of training staff for a number of personal and public relations considerations. The trainees may easily become aware how they are used for purposes other than being trained. Being involved in a training program may enhance the trainer's prestige, the organization's status or the teacher's status with only secondary attention given to obtaining the rational training purposes.

A training programmer who is a worker in the trainee unit has certain advantages over a programmer from outside. The content is job-related and it does not need much adaptation to be used. On the other hand, it may possibly cause a role confusion. The content itself may suffer from professional selectivity, and the "blind spot" common to practitioners operating within a given frame of mind may be transmitted to the trainees.

Teachers from outside on the other hand like professionals from related disciplines such as judges, psychiatrists, psychologists and university professors, come with a clearly defined role. The temporariness of his involvement prevents him from being a threat to trainees, or administration, who would otherwise mobilize their defenses to maintain their ground. This may permit an objective evaluation of the content offered. On the other hand, their presentation may be too remote to be applied, or may require too many modifications, or may be applicable in a rather limited number of situations. It is up to the training programmer to make the decision in a given situation.

Evaluation of Training Programs

Correctional services are not the only services

which fail to evaluate training programs as part of their day-by-day operations. Many service organizations whose existence is not dependent on the outcome of their operations and who are more threatened by internal conflicts assign few resources to evaluation of their output. The lack of routine evaluation procedures in correctional services stems from a variety of objective and subjective causes: the chronic lack of financial and personnel resources, an unclear definition of corrections objectives in the various services and organizations, and the damage a negative outcome may cause on the public image of the service of which most of its existence and growth is dependent. This attitude, however, should not transfer to the training.

Evaluative research may be conducted to verify whether or not the training program brought about the desired change in the required intensity and direction. This would help formulate future training programs if the objective had not been achieved.

Evaluative research should distinguish between training efficiency and training effectiveness. The former would deal with the operation of the training program, its orderly conduct, attendance rates, grades achieved by trainees in the various subjects taught. Training effectiveness relates to the question of how far the obtained achievements changed the performance pattern in the desired direction (e.g., probation, or in the supervisory group, a lower violation rate with a probationer group, judges processing delinquents into the different alternatives offered by the law which brought a lower recidivism rate, prisons and institutions dealing with a similar population as before but with a lower recidivism rate, parole officers with a lower violation rate, etc.).

Evaluation research may be on a formal level,⁸ using objective data and sophisticated statistical procedure. While such a research may be money and time-consuming, it would permit a wide range of comparisons, e.g., with the same unit at a later stage or with similarly evaluated units at different places or even different countries.

Any formal evaluation requires quantification of qualitative material on intervention outcome which may require more elaborate recording procedures in the service. This may add an unwelcome increase in paperwork for workers, especially because they already have for a variety of reasons too much recording to do.

There are a number of less formal and less

⁸ Suchman: *Evaluative Research* (New York: Russell Sage Foundation, 1967).

reliable variables which would indicate the impact of the training experience on correctional performance; trends toward change in the recommendation criteria of probation officers, probation officers agreeing to take a more difficult group of delinquents under their supervisory care. It should however be kept in mind that such evaluation outcomes may easily become biased as the result of vested interests of the trainer or the administration of the trainees. Conducting this

evaluation as an external researcher may increase the objectivity and at the same time increase communication barriers and resistance. A job-directed inservice training program is expected to offer to the trainees of the corrections service better ways in performing their task. Such training program may in addition by the rationality and purposefulness in which it is conducted convey a message to the correctional service which transcends beyond the mere context it delivered.

Case Planning in the Probation Supervision Process

BY AL HAVENSTRITE

Chief Probation Officer, U.S. District Court, Dallas, Texas

THE HISTORY of probation services in the past two decades is characterized by a conflict between emphasis on presentence investigations and other work for the court and supervision of those persons released to the community. Some experts have advocated, and many states practice, separating probation and parole into separate agencies because they feel that when court work and supervision coexist, supervision always receives less attention. In the Federal system parole and probation supervision are both handled by the probation officer. Comments made here with reference to supervision apply to both probationers and parolees.

Most jurisdictions have some statutory definition of what is meant by probation supervision. Title 18, United States Code, Section 3655, sets forth the specific statutory responsibilities for a United States probation officer. A portion of that statute reads: "He shall keep informed concerning the conduct and condition of each probationer under his supervision and shall report thereon to the court placing such person on probation. He shall use all suitable methods not inconsistent with the conditions imposed by the court to aid probationers and to bring about improvements in their conduct and condition." (emphasis added) It is to this responsibility that this article points. I hypothesize here that: (1) Supervision of persons on probation and parole is a responsibility equal in importance to the court work of the probation officer, and (2) careful planning is

essential if supervision of probationers is to be effective.

The purpose of an emphasis on supervision planning is to help the client improve his social adjustment during the period of supervision and hopefully throughout the remainder of his life. It is based upon the premise that:

(1) A probation officer can serve as an agent of change in the life of a probationer.

(2) While a voluntary commitment to program participation is most desirable, coercive casework can be successful.

There is much dispute among professionals as to the value of coercive casework. No one would deny that most clients who enter programs voluntarily are more highly motivated than persons placed in programs somewhat against their will. This article is written, however, based on the premise that: (1) Voluntary participation is preferable; (2) coercive casework can and does work with some people; and (3) even in those instances where the client is uncooperative and the probation officer feels the client will not follow through, good supervision planning should be attempted.

Setting Goals and Action Steps

Good supervision planning is a five-step process: analyzing the problems of the clients, establishing goals to address these problems, assigning priorities to these goals, and designing action steps to reach the goals within a given time frame. Assessing the needs of the client is

the diagnostic or evaluative portion of the supervision plan. Many resist adaptation of the so-called medical model in this evaluation process. Evaluation is simply an examination of the strengths and liabilities of the client as determined by, hopefully, the probation officer and client working together. The writer has no problem with the medical model. The probation officer, through experience and training, has a significant level of expertise in making judgments as to the relationship between certain psychological, social, and environmental characteristics and the likelihood of poor adjustment in the community.

Once the probation officer and the client agree on what problems exist, the second step in supervision planning is the establishment of goals. What do we want to accomplish? As used here the goal is the end result desired within a given period of time. Goals should be measurable and verifiable. They should be realistic and attainable. While an analysis of the problems of a given client may indicate a large number of goals which could be pursued, effective practice indicates that most clients can cope with only one or two goals at a time. Weighing them down with a lengthy list of goals is frequently self-defeating. The probation officer and the client should reach an agreement as to the priority of the goals defined.

The difficulty with this problem-goal directed approach to supervision planning is that many times a client cannot be held responsible for not reaching a given goal. Sometimes his failure to achieve the set goal is beyond his control. Suppose for instance, a client enrolls in a GED program which is cancelled through no fault of the client. If the goal was to obtain a GED within 90 days and the class will not be conducted, the client cannot be held responsible for not having reached the goal. Similarly, suppose a goal is set to obtain regular employment within 4 weeks. If the unemployment rate is in the 10 percent range, as it is in some places at times, it may be difficult for the client to obtain suitable employment. This introduces the third element of supervision planning—action steps.

Action steps are those things done in order to reach the goal. Action steps are always under the person's control and he can be held accountable for not carrying out action steps. Action steps are the specific steps necessary to achieve a goal. It is how you get "there" from "here." It is the "what" and "when" of action toward goal attainment.

PROBLEM

Client drinks to excess frequently and has several arrests related to alcohol abuse.

GOAL

Discontinue alcohol abuse within 6 months.

ACTION STEPS

1. Begin attending Alcoholics Anonymous immediately.
2. Attend a minimum of twice per week.
3. Meet with the probation officer every 2 weeks for individual counseling.

FIGURE 1

The concept of action steps can apply both to the client and the probation officer. Figure 1 illustrates the application of these principles to the problem of alcohol abuse. The goal is to stop alcohol abuse within 6 months. The action steps on the part of the client might include attending AA, attending group and individual counseling, seeing a doctor and using antabuse, or simply abstaining from the use of alcohol. Any or all of these action steps might be agreed upon between the probation officer and the client as being the responsibility of the client.

The action steps for the probation officer, however, would be different. These might include any of the following: (1) Provide the client with a schedule of Alcoholics Anonymous meetings during the first week of supervision; (2) enroll the client in a group counseling class; (3) provide the client with the name of a doctor who uses antabuse in his treatment and help him set an appointment; (4) spend 30 minutes per week counseling the defendant in the area of the abuse of alcohol.

In practice the action step of the client becomes the goal of the probation officer. In other words, the action step of the probation officer is that which the probation officer will do to get the client to carry out his action steps.

Experience has shown that it is necessary to add to the concept of action steps by adding time frames. In the illustration above, the action step for the probation officer might be: "Provide the client with the name of a doctor who uses antabuse in his treatment *within the first 2 weeks of supervision.*" Action steps, like goals, should be measurable, verifiable, realistic, and attainable. Emphasis on action steps as opposed to emphasis on the problem and/or the goal bears results

Supervision	
Date	Level

OFFICER-CLIENT WORKSHEET

Name: _____

	Problems Assessment		Priority		Problems Assessment		Priority
	Yes	No			Yes	No	
Family			L M H	Employment			L M H
Marital			L M H	Physical Health			L M H
Residential			L M H	Mental/Emotional			L M H
Leisure-Time			L M H	Narcotics			L M H
Education			L M H	Alcohol			L M H
Financial			L M H				L M H

Problem & Goals Defined:	Officer Action Steps	Status & Results
Problem: Goal: Date Set:		
Problem: Goal: Date Set:		
Problem: Goal: Date Set:		

Officer: _____ Date: _____ Code: L = Low
 M = Medium
 H = High

Client: _____ Date: _____

FIGURE 2

because it requires something of both the probation officer and the probationer.

Figure 2 illustrates a method of putting the planning process on paper. This format provides for a quick summary and a rating of the level of need. The goals set and action steps necessary to move toward the goals can be seen at a glance. Finally, the format provides for a periodic review of the plan. In this format it is the probation officer's action steps which are enumerated. Because of the motivation or lack of same on the part of the client, the probation officer cannot be held responsible if the client fails to carry out his action steps. The client's file should reflect those action steps which are the responsibility of the probation officer and are within his control.

Evaluating the Client

One would not think that a probation officer would need a reminder that to properly design a supervision plan, all relevant background material should be studied. Experience, however, shows that is not the case. Large caseloads, the press of other duties, and a lack of accountability standards results, many times, in supervision of the case beginning without any real consideration of the written material which has been prepared at considerable expense and effort. In probation cases most officers have benefit of a presentence investigation and report. In jurisdictions where bail investigations and/or supervision are available, reports of the pretrial services officer should be scrutinized. In parole cases institutional material and the results of the pre-release investigation interviews should be taken into consideration. Figure 3 illustrates the sequence suggested.

In all cases, the initial interviews with the client should be conducted with the thought in mind of correlating personal impressions gained by the interviewer and the results of the study of the written material. A proper evaluation of what has gone before leads to a coordination of effort and brings continuity to the criminal justice process. How many times has a parolee observed the efforts of his parole officer, which seemingly ignored all that had gone on before. The client is left to wonder if anything he had attempted to do for himself in the institution was really worthwhile in the eyes of his parole officer. The same feeling might be had by a probationer who goes through an extensive period of presentence investigation and then observes his probation officer totally ignore anything that

the probationer may have contributed to that report.

A systematic approach to evaluating the client should be developed. Any number of methods can be used. In fact, the only system that will not work is no system. Figure 4, developed for use in the probation office of the U.S. District Court, Northern District of Texas, lists 10 life adjustment areas for consideration. Under each subheading minimum and optimum levels of attainment are suggested. These are not all inclusive. Many others could be suggested. It is felt, however, that the minimum goals should be considered in each case when (1) there is sufficient time under supervision to make the achievement of these goals possible, and (2) the physical and emotional health of the client are such that achievement of these limited goals is possible. Note that some of the minimum goals are requirements of the probation or parole rules.

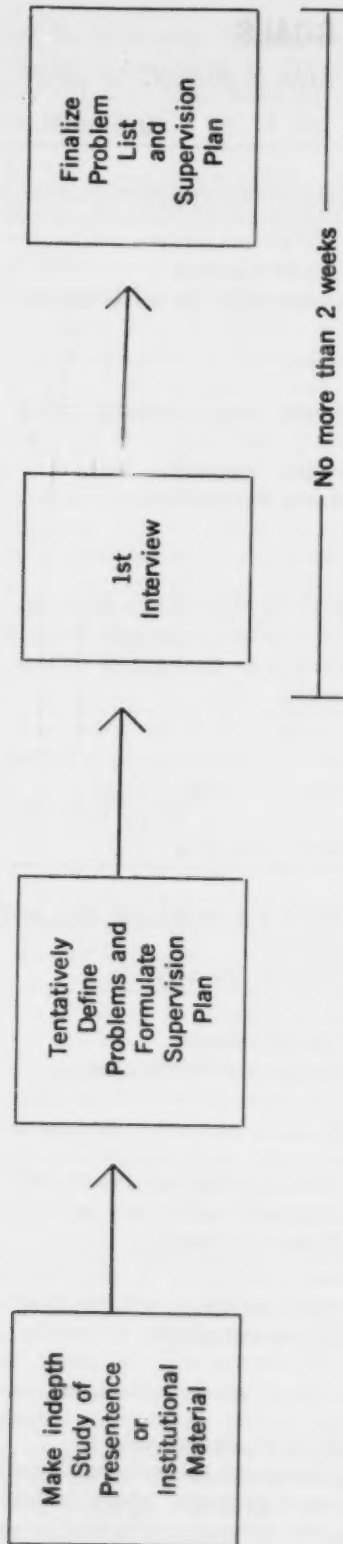
Optimum goals are suggested for those clients who are more motivated and who make progress during the period of supervision. The value of this systematized approach lies in the fact that with every client some thought is given to each of the life adjustment areas.

To illustrate this concept, take the residential section. The minimum goals suggest that during a period of probation or parole supervision, the probation officer could consider the following three items as minimum goals: (1) housing suited to basic needs within financial means; (2) that the client establish a pattern of paying rent on time, and (3) if the client is living in public housing, that he meet the legal requirements for public housing assistance. Neither item 1 or item 2 are directly related to the possibility of the client's being in violation of the conditions of his probation. Item 3, since it is against the law to violate the requirements, might be in and of itself a violation of probation. The point is, it is felt that these three are the minimum goals, in the residential area, toward which clients should be encouraged to strive during a period of probation or parole supervision.

For the more motivated individual, the goals suggested under optimum goals are appropriate for consideration. These include: (1) reside outside a poverty area; (2) stable residential pattern; and (3) home ownership. These goals are worthy but not necessary to the achieving of success on probation or parole. Note that the minimum and optimum goals suggest, in some instan-

FLOW SHEET SUPERVISION GOALS

Ideal



Alternate

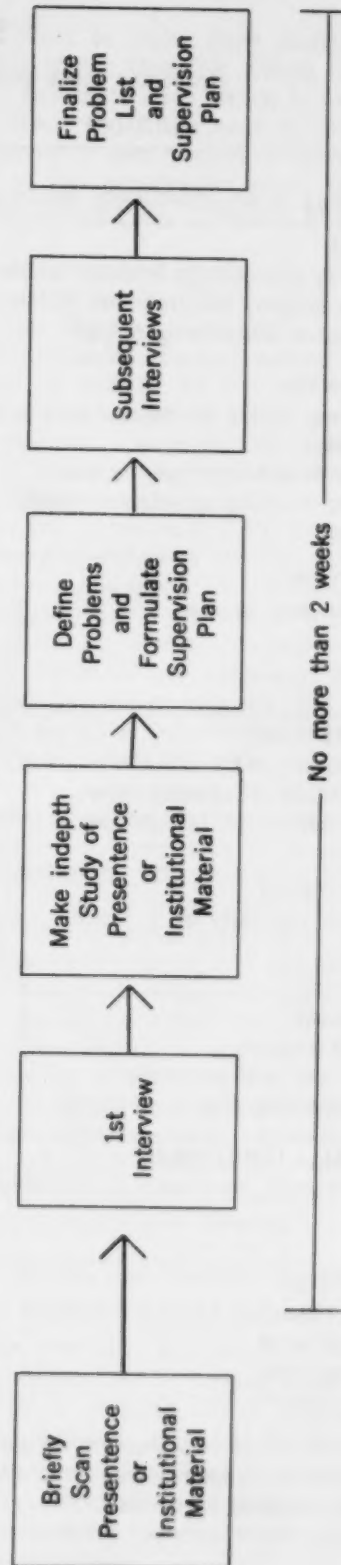


FIGURE 3

SUPERVISION GOALS

*Indicates these goals are required by rules of probation or parole.

MINIMUM	OPTIMUM
FAMILY	
1. Residing in an appropriate family arrangement.	1. Harmonious relationship with immediate family.
MARITAL	
1. Divorce proceedings initiated where appropriate.	1. Legally married.
2. Child support requirements fulfilled.	2. Harmonious marital situation.
3. Spouse a law-abiding citizen.	
RESIDENTIAL	
1. Housing suited to basic needs within financial means.	1. Reside outside poverty areas.
2. Current with rent payments.	2. Stable residential pattern.
3. Public housing assistance meets legal requirements.	3. Home ownership.
EDUCATION	
1. Client able to read and write.	1. GED or high school diploma.
	2. Appropriate vocational training.
	3. College or community college if deemed appropriate.
LEISURE TIME	
*1. Associate with reputable groups.	1. Participation in group activities—clubs, churches, teams or organizations.
*2. Maintain reasonable hours.	2. Interest in a hobby (anything more substantive than "watching TV").
*3. Participate in law-abiding activities.	
EMPLOYMENT	
*1. Work regularly at a lawful occupation.	1. Acquire a vocational skill and be regularly employed.
	2. Achieve job stability.
FINANCIAL	
1. Self-supporting.	1. Saving money.
2. Current with obligations.	2. Budgeting his income.
*3. Supporting any dependents.	
MENTAL & EMOTIONAL	
1. Psychiatric treatment if indicated.	1. Stable emotional health with emphasis on: (a) improved self-image and (b) improved attitude toward authority.
NARCOTICS	
1. Participation in drug treatment program where indicated.	1. Participation in a "drug free" treatment program where indicated.
*2. Drug free.	
ALCOHOL	
1. Participation in a program for alcoholics and/or problem drinker where indicated.	1. Free of alcohol use.
*2. Not drinking to excess.	2. Encourage spouse's participation in alcohol treatment program, where indicated.

FIGURE 4

ces, a progression. By following the systematic evaluation of each client, suggested in Figure 4, the probation officer will have considered the minimum and optimum goals in each of the life adjustment areas.

While all of the life adjustment areas are of importance and should be considered, certain of the life adjustment areas should be considered first. A client can work on only so many things at once. While there might be six different areas where he has problems, the probation officer should choose the one or two most important areas for initial efforts. The residential and employment areas for most clients are essential initial considerations. If the client has housing suited to his basic needs within his financial means and has regular employment at a lawful occupation, consideration can be given to other goals as well as reaching a higher level of achievement in the area of residential and vocational adjustment. In other cases, narcotics and alcohol problems would have to receive first attention. As minimum goals are reached in these areas consideration can be given to other areas of adjustment or higher goals set in the same adjustment area.

Client Involvement

No amount of effort on the part of the probation officer will achieve the results that can be achieved when the client has a strong involvement in the preparation and implementation of the supervision plan. Involvement of the client is critical to good supervision planning. For this reason preliminary efforts at developing a plan should be simply that, preliminary. It will usually take two or more sessions with the client to properly gain the degree of involvement of the client that is desirable. More will be said later about the progress of a supervision plan from the initial stages to its logical conclusion.

There are different ways to view the involvement of the client and the necessity of a supervision plan. The easiest way to implement supervision plans and probably the least effective is for the probation officer to simply make judgments and impose these on the client. While the probation officer has the authority to do so, this type of autocratic supervision leaves much to be desired. The second method, and probably the best method, would be for the client to totally determine on his own what he would like to accomplish during the period of supervision. Whenever possible, the probation officer should en-

courage the client to make these decisions but experience has shown that few clients have the introspection and motivation which is necessary to do this effectively. This leads to the third and most frequently used method of determining the content of the supervision plan; the plan is worked out between the probation officer and the client.

In a training session on supervision planning, an experienced probation officer asked, "What does your judge think of your getting involved in areas of life adjustment which are not defined by the probation rules?" He had reference to such matters as concern over a stable residential pattern or residence outside poverty areas. One could certainly make a case for the position that a probation officer has no function other than doing what he can to insure that the client obeys the probation rules and thus the law.

Should the probation officer be concerned about those life adjustment areas which cannot be shown to be directly related to criminal activity? It is not only desirable but necessary that the probation officer go deeper with his clients than just a concern for their behavior which can be shown to have a direct and close relationship to future criminal behavior. Life is not lived in a vacuum and pressures on clients who happen to be under probation supervision are no different than the pressures on the general population. Anything which the probation officer can do to relieve stress on the probationer is of benefit to the probationer, the court, and ultimately to the community against whom the defender is charged with having committed his crime.

Another might argue that requiring the client to become involved in planning for the period of probation supervision creates stress. This may be true, but the skillful probation officer can help the client deal with this pressure. It is the negative pressures of unresolved problems at which good supervision planning is directed.

Review and Update

One of the common mistakes in supervision planning is the view that it is an item for consideration during the initial stages of supervision only. The truth is, without proper review and update little is really accomplished by establishing an initial supervision plan. The following should be continually on the mind of the probation officer as he meets with his clients and mentally evaluates their progress:

**SUPERVISION GOAL PLANNING AND ASSESSMENT
IS AN ONGOING PROCESS**

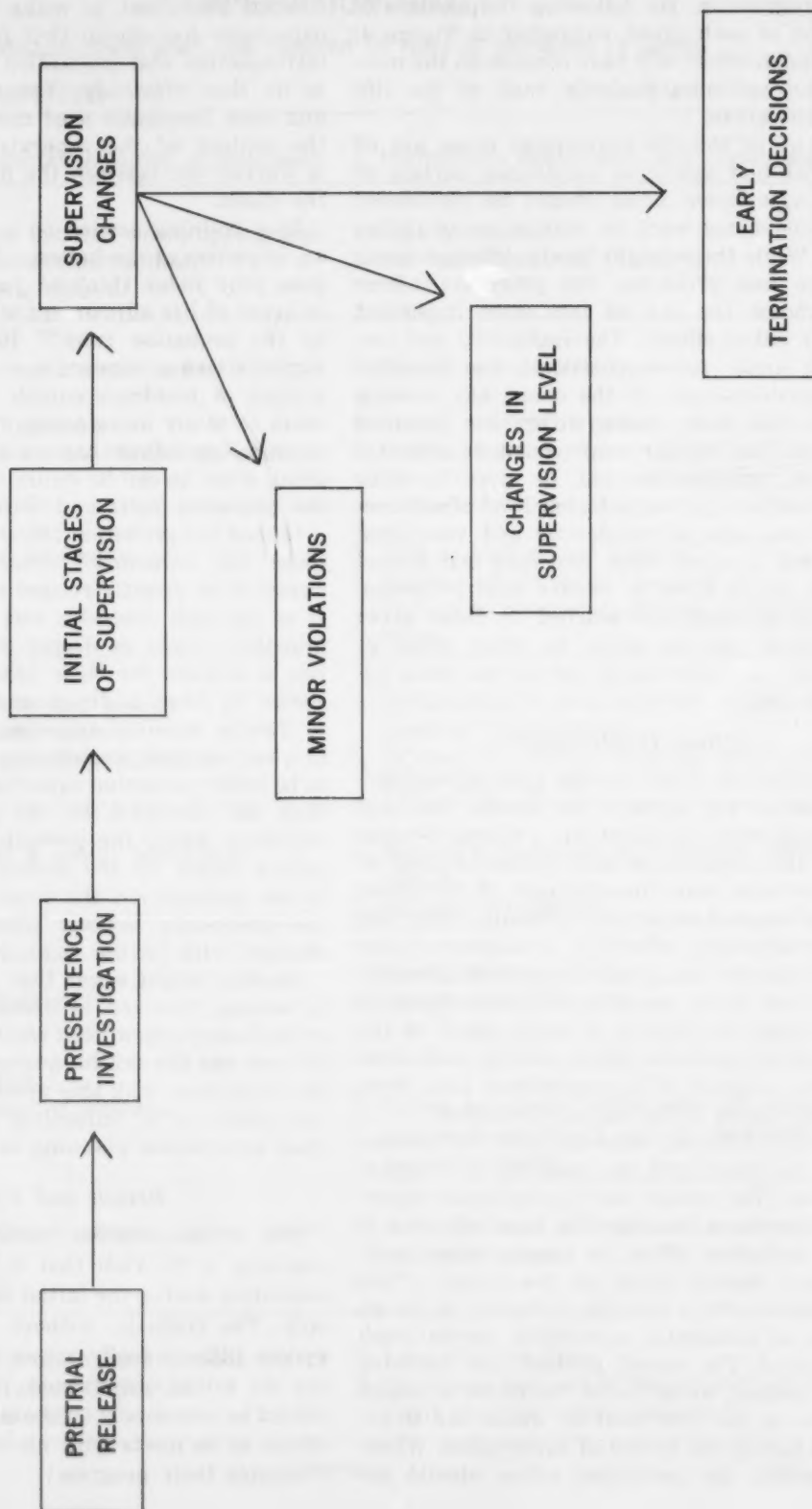


FIGURE 5

(1) How well has the client carried out his action steps?

(2) What has the probation officer done to assist the offender to reach his goals?

(3) What actual progress has been made toward goal attainment?

(4) Are the initial goals still appropriate? What modifications are necessary?

(5) Are time frames being met?

(6) Have the special conditions imposed by the court or Parole Commission been met? If not, what is being done to fulfill these conditions?

The probation officer should establish a systematic method of reviewing and updating his case plans. Some may want to establish fixed time frames for review. Others may want to have the file available when officer-client contacts are made so that changes and updates can be made routinely. Figure 5 illustrates a planning and assessment flow sheet which is related to case movement rather than time or other organizational factors. It is for a probation case and would need to be adjusted only by inserting the institution between the presentence investigation and initial stages of supervision to be applicable to parole cases.

Goal setting at the pretrial release stage is somewhat limited but should be considered. It could be that the recommended treatment plan would be the difference between the court official releasing the person on bond and continuing them in custody. Certainly, at the presentence investigation stage a treatment plan must be considered. If probation is a recommendation, such recommendation should be based upon an evaluation of the needs of the client and what is available in the area of a treatment program.

Supervision planning in the initial stages of supervision is simply that, the initial stage of supervision planning. Reevaluations of the supervision plan can be routinely done at the time of changes in supervision level, at the time of the minor violations, and finally, prior to any early termination decisions. What is suggested is that the supervision plan and accomplishments should be the primary instrument evaluated at the time of changes in supervision level, consideration of what to do about minor violations, and consideration for early termination. The supervision plan becomes the major working document in the client's file.

Frequently, probation officers determine that a client has no problems which need to be addressed

during the period of supervision. In those cases the court might better use unsupervised probation. The time of the probation officer should not be wasted supervising people who have no definable personal needs unless that individual is adjudged by the court or the probation officer to be a threat to the community as in organized crime cases, major white collar offenders, etc. In these cases, supervision is nothing more than surveillance and the probation officer should acknowledge that fact. In that case surveillance is the plan of supervision.

Likewise, an individual may have areas of his life adjustment which demand his attention during the early period of supervision but which are taken care of well before the end of the supervision period. Suppose a person is placed on probation who is in a marital situation leading to a divorce. Once the client is out of the situation and is observed to begin an acceptance of his new status, the probation officer may have no other areas in which he feels the client needs help. This should simply be acknowledged and consideration should be given to changing the case to unsupervised probation. Again, the case decision is made by evaluating the needs of the client, examining the goals set and evaluating the degree to which the client achieved these goals.

Systems Analysis

Another valuable use of good planning is in analyses of the overall activities of a probation officer. A list of all the identified individual needs of persons on a given caseload provides a good overview of resources needed. Further, the probation officer can determine which needs he can meet through his own efforts and which must be met through the use of referral resources. Such a study of his caseload and the needs of the persons under supervision may identify for the probation officer certain areas where the needs cannot be met with the available resources in the community. This means, then, of necessity the probation officer will have to provide the resource if it is to be available to his clients. If a probation officer sees himself as only a broker of services then the overall effectiveness of the probation department is almost totally dependent upon the availability of resources in the community. Experience has shown that no community is so fully staffed with the necessary resources as to eliminate the necessity of the probation

officer being involved in at least some of the treatment programs.

Similarly, administrators can use these analytical summaries of individual caseloads and combine them for an overall evaluation of the needs of the clients in a probation department. This might lead to the matching of clients with particular needs with probation officers who are qualified to meet those particular needs. For instance, if a number of clients are found to need help in budgeting their income, one probation officer might be assigned to establish some type of group situation in which the art of budgeting income could be taught to a number of clients at one time. Similarly, if a large number of clients are found to be unemployed and community resources are not meeting the needs, the administrator might want to consider setting up a specialized unit within the department to work with the chronically unemployed.

Value of Good Supervision Planning Assets for the Client

Good supervision planning will: (1) involve the client in planning his future; (2) broaden the area of concern from just those outlined in the probation rules; and (3) insure greater continuity of effort through all phases of the corrections process.

Assets for the Probation Officer

Good supervision planning will: (1) improve the probation officer's knowledge of the client's background; (2) cause contacts with the client to be more goal directed; (3) force the probation officer to make better use of community resources; and (4) lead to more purposeful case contacts

which will provide a more economical utilization of the probation officer's time and related expenses.

Assets for the Probation Department

Good supervision planning will: (1) demand continuity of effort in supervision; (2) permit better evaluation of the work of the probation officer; and (3) provide a vehicle for determining the treatment needs of the department.

Summary

Supervision of persons placed on probation and parole requires careful planning. The supervision plan should address the following:

- (1) Assess needs of the client.
- (2) Develop goals related to the needs assessment.
- (3) Establish priorities for consideration of these goals.
- (4) Develop action steps to accomplish these goals.
- (5) Establish time frames to structure the action steps.

Once this is accomplished, periodic review and updating of the plan will result in the case plan being the major working document of the case file.

Failure to do good case planning results in the probation officer reacting rather than acting. Like a spider moving toward whatever may have become enmeshed in the web, many probation officers busy themselves handling crisis situations. If you don't know where you are going, any old route will do. With careful supervision planning the client and the probation officer can chart a road to successful living on the part of the client.

A LINE OFFICER is only as good as his or her actions to facilitate change with clients under supervision. A first line supervisor is only as good as his or her actions to facilitate the officer's ability to effect those changes, and so on up the table of organization. Ultimately, the worth of a probation operation as a service can only, and should, be evaluated on its readily observable efforts at facilitating the accomplishment of its stated goals. Those that make a concerted effort to reduce administrative barriers in the path of this direction are, at least, increasing the probability that they will succeed.

—DANIEL L. RANDOLPH

Looking at the Law

BY JUDD D. KUTCHER

Assistant General Counsel, Administrative Office of the United States Courts

REGISTRATION STATUTES

Our office has been asked about the constitutionality of a state statute requiring persons convicted of a felony more than twice to register with the local sheriff's department. Our research indicates that such statutes are constitutional.

It has been held unconstitutional to punish, under a registration statute, a person whose failure to register is completely because of his being unaware of the requirement. See *Lambert v. California*, 355 U.S. 225 (1958). But a registration statute is not unconstitutional as applied to a former felon who is aware of his duty to register. 21 Am. Jur. 2d Criminal Law § 625 n. 65 (1965); *Atteberry v. State*, 84 Nev. 213, 438 P.2d 789. Thus in a criminal prosecution for failure to register, a probationer would have to prove that he was unaware of the registration statute in order to avoid conviction. That fact might be difficult to prove. So we recommend that you inform all persons under your supervision to comply with registration statutes.

ESCROW OR CHARITY FUNDS

From time to time we receive inquiries about whether a district court possesses the authority to divert money, paid by a probationer under a special condition of probation, into an escrow account for various probation-related services.

If the special condition is considered a fine, two problems exist. First, payment of the fine to the fund must meet the usual standard that a probation condition must be reasonably related to the probationer's rehabilitation or the protection of the public. See *United States v. Consuela-Gonzalez*, 521 F.2d 259 (9th Cir. 1975). It may be hard to identify a reasonable nexus between the probationer's offense and payment of a fine into an escrow fund. Second, a court must cover all monies received by it into the Treasury. 31 U.S.C. § 484 (1976). Depositing money received as a fine into an escrow account would directly conflict with the statutory obligation of section 484.

If the special condition directing the probationer to make payments to an escrow account is considered "restitution," it would be invalid. A court's escrow account would not be a proper "aggrieved party," because the account's recipients would not have been directly injured by the probationer's offense. See *Clovie Retail Liquor Dealers Trade Assoc. v. United States*, 540 F.2d 1389 (10th Cir. 1976). For the above reasons, the validity of an escrow account is questionable.

DISCLOSURE OF JUVENILE RECORDS

Disclosure of juvenile records under the Federal Juvenile Act, 18 U.S.C. § 5032 *et seq.* is a subject rarely, if ever, discussed in case law. Yet, numerous questions arise about it that are not answered by merely reading the language of the governing statute, section 5038 of title 18. Two fundamental considerations are (1) the sentencing court's responsibility for maintaining the confidentiality of these records and (2) the extent to which a juvenile may waive the protective provisions to permit

release of favorable information from his juvenile records.

Section 5038 specifically requires "the court" to safeguard and seal a juvenile's records. Section 5038(a) authorizes the court to permit disclosure with respect to six exceptions:

- (1) inquiries received from another court of law;
- (2) inquiries from an agency preparing a presentence report for another court;
- (3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime of a position within that agency;
- (4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court;
- (5) inquiries from an agency considering the person for a position immediately and directly affecting the national security; and
- (6) inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.

Thus the court must determine whether a specific request for juvenile information falls within one of the excepted circumstances.

In our view, the statute contemplates a separate court order for each disclosure exception. Consequently, a procedure whereby a court issues a general order authorizing probation officers to release juvenile information when they determine it appropriate would not comport with section 5038.

Besides the limited instances of disclosure expressly set forth in section 5038(a), it appears reasonable to read section 5038 to permit implicitly a sentencing court to allow disclosure if the juvenile waives the confidentiality of the statute with respect to particular information in his file. Consistent with the statute's provisions for counsel, a juvenile's waiver should be accompanied by the written approval of his attorney, parent, or guardian.

A juvenile waiver appears appropriate in two types of circumstances:

- (1) release of juvenile information to research treatment facilities prior to the commitment of the juvenile; and
- (2) release of such information to an employer where disclosure would enhance the juvenile's job opportunities.

The Act expressly authorizes a probation officer to share juvenile information with research facilities after the time the juvenile is "committed." 18 U.S.C. § 5038 (a) (4). But the Act fails to expressly authorize a similar release for treatment purposes prior to commitment. Release of such information prior to commitment appears quite compatible with the protective intent of section 5038. So a juvenile's waiver for this purpose would pose no conflict with the intent of section 5038.

Section 5038 expressly bars employment-type disclosure except for certain instances, e.g., for law enforcement agencies for employment related to a position with the agency (section 5038(a) (3)); or an agency considering employing a person in a position affecting national security. For example, disclosure of juvenile records to a United States Army recruiter would probably be im-

proper since the intent of the Act is to enhance the juvenile's chances for employment, and such a disclosure would probably hurt his chances of getting into the Army. However, a juvenile should be allowed to request disclosure to an employer, including the United States Army, where he concludes that the disclosure would improve his chances of securing a job.

Where a court permits a waiver, the juvenile should not be able to pick and choose among the favorable and unfavorable aspects of his record to the extent that the employer might be misled. A juvenile waiver for disclosure should include the release of sufficient information to apprise the employer fairly.

A final point involves the question of a probation officer's legal responsibility for disclosing juvenile information to an employer in situations where the officer believes a serious physical or financial risk may exist as a direct result of the employment. See e.g., *Reiser v. District of Columbia*, 563 F.2d (D.C. Cir.) vacated, reh. en banc (1977); *Johnson v. State*, 73 Cal. Rptr. 232, 447 P.2d 352 (Sup. Ct. 1968). Unlike the legal responsibility normally applying to employment of ex-offenders, the Act's express prohibition against disclosure would appear to impose a ministerial obligation on the part of a probation officer not to disclose juvenile information in this type of circumstance. The statutory obligation would relieve the officer of any legal responsibility to third parties; however, the officer should still inform the court of the possible problem and take whatever other steps he can to minimize the foreseeable risk, such as prohibiting the juvenile from securing certain kinds of employment or increasing the degree of the juvenile's supervision.

MISCELLANEOUS CASES

PROBATION REVOCATION; COUNSEL

In the course of evaluating whether a probationer had effective representation of counsel, the Fifth Circuit noted that "there is no [absolute] right to counsel at a probation revocation hearing, although due process may require that an attorney be appointed in a particular case." *Jones v. Wainwright*, 604 F.2d 414 (5th Cir. 1979).

PROBATION REVOCATION; WITNESSES

Where a parolee is revoked entirely on the basis of an association with known criminals, and the proof of this fact is based solely on the parole officer's file notation, the parole officer must be available to testify at revocation. *Galante v. United States Parole Commission*, 466 F. Supp. 1266 (D. of Conn. 1979).

PROBATION REVOCATION; DELAY IN BRINGING CHARGES

A probation officer has an obligation not to unreasonably delay bringing charges of a probation violation. Thus when a probationer is convicted of three misdemeanors and he timely reports these to his probation officer, the officer has an obligation to act on them within a reasonable time. Where the officer waits over 2 years before alleging the misdemeanors as probation violations, due process makes revocation on such state charges fundamentally unfair. Revocation would be proper, however, if the situation involved some unusual circumstances or deception by the probationer. *United States v. Tyler*, 605 F.2d 861 (5th Cir. 1979).

PROBATION; CONDITIONS

The State Parole Board may impose a condition on a parolee that he not contact an agency concerning his

children without first obtaining prior permission from his parole officer. Such a condition is valid where reasonably related to the parolee's rehabilitation or the protection of the public. In this case the parolee had a history of "confrontations" and thus the condition was designed to protect others. *Barlip v. Com., Pennsylvania Bd. of Prob., Etc.*, 405 A.2d 1338 (Pa. Comwth. Ct., 1979).

PRESENTENCE REPORT; RECUSAL

The Fifth Circuit has held that a trial judge need not recuse himself for bias by reason of the fact that, prior to the trial, he has read and considered the defendant's presentence report in relationship to a subsequently withdrawn guilty plea. *United States v. Clark*, 605 F.2d 939 (5th Cir. 1979). See *United States v. Partin*, 552 F.2d 621 (5th Cir.), cert. denied, 434 U.S. 903 (1977).

PRESENTENCE REPORT; INFORMATION

The procedural safeguards surrounding a criminal suspect's confession do not apply in the case of a convicted defendant being questioned as part of a presentence investigation. Thus, information on past crimes obtained from the defendant by a probation officer and psychiatrist was admissible for sentencing purposes. *United States v. Jones*, No. 79-Cr-89, (D. Colo. Sept. 11, 1979).

SEARCH AND SEIZURE; EXCLUSIONARY RULE

So far only one Federal court has applied the exclusionary rule to a probation revocation hearing. *United States v. Workman*, 585 F.2d 1205 (4th Cir. 1978). A recent state case adopts the same position, holding that application of the exclusionary rule would apply in probation revocation where the search was undertaken with the intent to revoke probation or with knowledge of the individual's probation status. In such a case the deterrence rationale for use of the exclusionary rule would apply. *State v. Davis*, 25 Crim. Law Repr. 2063 (Sup. Ct. La. 1979); See Comment: "The Exclusionary Rule in Parole Revocation Hearings: Detering Official Infringement of Parolees' Fourth Amendment Rights," *Brigham Young U.L. Rev.* 161 (1979). See also *Piccarillo v. New York State Board of Parole* (NY Ct. App. Oct. 18, 1979).

YCA EXPUNGEMENT

The D.C. Circuit recently established the position that the setting aside provision of the YCA means that the youth conviction record should be expunged. *Doe v. Webster*, 606 F.2d 1226 (D.C. Cir. 1979). The United States District Court for New Jersey has broadened that interpretation, holding that the term "set aside" applies to expungement of an eligible youth's arrest record as well as his conviction record. Section 5021 of title 18 speaks of "setting aside" only the "conviction," but the district court concludes that the word "conviction," in the YCA context, refers to the entire record of the youth's criminal episode, from his arrest to his sentence. Expungement of the entire record of the offense is the only way the youth will receive the clean slate and fresh start in life which the Act intended to provide. *United States v. Henderson*, 482 F. Supp. 234 (D. N.J. 1979). The Department of Justice is considering appealing this decision.

YOUTH CORRECTIONS ACT; CONSECUTIVE SENTENCE

The Youth Corrections Act does not prohibit a consecutive sentence in a separate offense, committed after the imposition of sentence under the Act. *United States v. Lyons*, 609 F.2d 1338 (9th Cir. 1979). In connection with such a consecutive sentence, the defendant's release

from his YCA sentence in order to commence a specifically imposed additional sentence does not count as an unconditional discharge nor terminate jurisdiction over him under the YCA. *Mustain v. Pearson*, 592 F.2d 1018 (8th Cir. 1979).

YCA; RESENTENCING UPON REVOCATION

Several recent cases are adding clarity to resentencing under the YCA. First, when a court suspends imposition of a sentence and grants section 5010(a) probation, upon revocation, the court can resentence the youth under the YCA or as an adult. *United States v. Evers*, 534 F.2d 1189 (5th Cir. 1976); *Accord Dunn v. United States*, 561 F.2d 259 (D.C. Cir. 1979); *United States v. Chappell*, 480 F. Supp. 321 (W. D. Okla. 1978). Where the court initially imposes a 5010(b) or 5010(c) sentence, suspends it and places the defendant on YCA probation the court may not, upon revocation, resentence the youth as an adult. Sentencing must be under the YCA, the theory being that an adult sentence is inherently more severe

than a YCA sentence. *United States v. McDonald*, 611 F.2d 1291 (9th Cir. 1980).

YOUTH CORRECTIONS ACT (YCA); TOLLING

Earlier cases have recognized that a district court had equitable power to suspend (toll) the running of a YCA sentence due to certain misconduct of a prisoner/parolee. See e.g., *United States v. Marshall*, 532 F.2d 410 (5th Cir. 1976), (service of sentence for civil contempt); *Suggs v. Daggett*, 522 F.2d 396 (10th Cir. 1975) (escape); *See Frye v. Moran*, 302 F. Supp. 1291 (W.D. Tex. 1969) (release on bail pending appeal). The underlining rationale behind those cases was that a youth offender could not benefit from rehabilitation when he is not under supervision. Accordingly, periods during which a youth is not under supervision toll the running of the Act's 6-year computation. A recent case adds "absconding" to that list of circumstances in which a youth's sentence is tolled. *Henrique v. United States Marshal*, 476 F. Supp. 618, 624 (N.D. Cal. 1979).

News of the Future

RESEARCH AND DEVELOPMENT IN CORRECTIONS

By JOHN P. CONRAD

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ONE OF THE BEST wardens I have known over many years of warden-watching was Robert A. Heinze. For more than two decades, from the early forties, through all the fifties, and well into the sixties, he presided over Folsom Prison, California's maximum security establishment. He was a mild-mannered man, as good-natured as anyone in his profession can be, and determined to have as little trouble as possible in the large old prison to which he had been assigned. In that objective he largely succeeded. There were occasional disorders during his régime, but the place never was out of control.

Once during the early fifties, however, there was a fairly serious disturbance in what we then called the Adjustment Center—a prison within the prison, reserved for punitive isolation and various forms of long-term segregation. (It says something about penological change that we now call these facilities Security Housing Units; to prisoners they've always been The Hole, and they still are.) The insubordinate prisoners were subdued, and the uprising was efficiently brought to an end.

As always happens, this incident became a topic of lively conversation in a setting in which tedium usually reigned. Shortly after it happened, I sat in on a post-mortem in the warden's vast and gloomy office. Most of the details of our discussion have long since escaped my memory, but I recall the surprised gratification with which I heard the warden remark, "I don't want to run that place without a program any longer."

What he had was a well designed, brand new, super-maximum unit in which about 135 men were housed in single cells, in some cases for years. There was nothing at all for them to do, except the scheming, the plotting, and the yelling that goes on in such places night after night, while during the day most of them dozed away the

vacant hours. Some times an officer would slip up on a procedure and a watchful prisoner would take advantage of the mistake to get some trouble started. What happened on the occasion I am recalling from this distant past is unimportant. Warden Heinze thought that trouble was less likely to happen if other things were taking place in this austere environment.

That was the beginning of a treatment program in the Folsom Adjustment Center. The whole place was brought under the supervision of a social worker. There was group counseling for convicts cautiously selected to avoid murderous confrontations between ancient enemies. An educational program, mostly at the basic level was offered to interested convicts, and a good many were interested. There was a daily exercise period for everybody who wanted it, again in carefully chosen groups. It was a remarkable sight, those celebrities of prison violence peacefully jogging about a tiny exercise yard like so many patrons of a health spa. For those who seemed to respond well to these exceedingly modest program offerings, a kind of parole system was created. Under specific conditions, the "Adjustment Committee" would grant a ticket of leave by which a man could be released to the yard and eventually restored to the status of a regular prisoner—a yardbird with no strings attached.

Wonders did not happen, and none were expected. The men in that Adjustment Center were socialized to violence, conniving and predation. They all had reputations as desperate characters that they generally wished to maintain. I cannot summon to mind any anecdotes of vicious convicts transformed into productive citizen-prisoners as the outcome of this improvised and not exactly imaginative program. But it was a program. Warden Heinze was convinced that it reduced trouble in the Adjustment

Center and made it possible to release some people into the general population.

The Folsom Adjustment Center as it was in those days comes to mind as I respond to a reading of the National Research Council's report on *The Rehabilitation of Criminal Offenders: Problems and Prospects*, just received from the National Academy of Sciences.¹ It is the product of 2 years of study by a distinguished panel of social scientists led by Lee B. Sechrest, of Florida State University. The Panel's report is supplemented by five commissioned papers which explore in detail some of the methodological problems in the evaluation of rehabilitation programs.

I don't intend to review the entire content of this formidable report on the state of the rehabilitative arts, though there are enough bones of contention to fill another book of at least the same size. What I hope to do here is to call this important volume to your attention and to consider some of the premises on which its conclusions rest. By the end of this discourse, Warden Heinze's "adjustment" program may emerge as the model of what can—and must—be done in prisons with programs that we are accustomed to designating as "rehabilitative."

THE FINDINGS ARE FAMILIAR

Dr. Sechrest and his colleagues begin with a definition to which no exception can be made. I quote: "Rehabilitation is the result of any planned intervention that reduces an offender's further criminal activity, whether that reduction is mediated by personality, behavior, abilities, attitudes, values, or other factors. The effects of maturation and the effects associated with 'fear' or 'intimidation' are excluded, the results of the latter having traditionally been labeled as specific deterrence." (pp. 4-5)

The question that the Panel then poses and explores is: Does rehabilitation occur? The short answer is, not so that it has been detected by the instruments used in social research. As a point of departure, the Panel examined the famous review by Lipton, Martinson, and Wilks that resulted in the conclusion that rehabilitation does not work.² The complete study was evaluated in detail and found to be accurate and fair, though too lenient in its assessment of methodology and statistical analyses.

As seen by Dr. Sechrest and the Panel, the trouble with our understanding of the rehabilitative process is that there are problems of implementation and problems of evaluation. Both kinds of problems are seen as "complex, possibly intractable," (p. 13) but as such they have so far obstructed any achievement of knowledge about the rehabilitation of offenders.

The problems of implementation consist mostly of difficulties encountered in maintaining the integrity of the programs implemented. As an example, much is made of the well-known study of group counseling by Kassebaum, Ward, and Wilner, with a concurring nod to Quay's critique.³ It will be recalled that Kassebaum and his colleagues undertook to evaluate the effectiveness of group counseling as administered under what seemed to be ideal research conditions at a new prison, the California Men's Colony at San Luis Obispo. The findings of the study are correctly summarized in the statement that "at no point were there significant differences between counseled and

control cases by the recidivism measure employed." (p. 40) The subsidiary analyses carried out did not uncover any variables that combined with that measure to alter the conclusion that counseling had no impact.

So far so good. The research design used by Kassebaum, et al., was exemplary—far more rigorous than almost any other ever undertaken in a correctional institution. But Quay's commentary on this research passed by the excellence of the evaluation methodology and addressed the integrity of the program. Four issues emerged from his critique, and they reopen the question apparently closed by Kassebaum, Ward, and Wilner.

Quay's issues were: (1) Was the treatment adequately conceptualized? (2) Was the treatment actually delivered as intended in sufficient duration and intensity? (3) Were the personnel charged with delivering the treatment adequately trained and supervised? (4) Was the treatment appropriate for all those chosen to receive it?

As to all these issues, Quay concluded from the evidence supplied by the evaluation that the answer was negative. In spite of randomization, in spite of the meticulous control of all cases in the study, and in spite of much more observation of process than is usually found in correctional program evaluation, what was evaluated was not a program that could be expected to produce the results contemplated in the basic hypothesis that was to be tested.

Quay had the advantage of the unusually full report that Kassebaum and his colleagues published. Few evaluations contain so scrupulous an account of what was observed and how the observations were translated into statistical findings. It is improbable that there are many experimental studies of correctional treatment that can claim positive responses to Quay's four questions. The National Research Council's Panel is certainly correct in its strictures about the integrity of programs.

As to evaluation, the Panel firmly asserts that the demonstration of effectiveness of correctional treatment is necessary to meet the "legitimate concerns of several constituencies of the criminal justice system." (p. 55) These are, (1) the taxpayers, who pay for rehabilitative programs; (2) the families of criminal offenders, who should not be led to believe that their "errant members" are being helped, when in fact they are not; (3) the correctional staff, who should know that what they do in the name of rehabilitation is in fact effective; and (4) the offenders themselves, who have a right to some confidence that participation in rehabilitation is not a waste of time and hope.

The Panel found that not many evaluations were conducted with methodological rigor. "The thousands of extant studies scarcely add up to a single trustworthy conclusion." (p. 60) This grim opinion is supported by reference to excessive and, in the Panel's view, unnecessary retreats from randomization of experimental and control groups; poor judgment about sample size; inadequacy of baseline data. The need for careful experimental design is epitomized by quoting Mosteller's aphorism: "The only alternative to experimenting with people is to fool around with people." (p. 71) I want to return to this point later in this report.

What puzzles the Panel is how recidivistic acts should be scaled, and what time period should be used to measure them. The Panel's frustration about this matter may be inferred from its wistful suggestion that "it does not seem impossible that recidivism measured in terms of rearrests might be multiplied by some fraction in order to get recidivism expressed in terms of convictions." (p. 71) No hint of a rationale for this odd notion is advanced. One can only suppose that preoccupation with the curves to

¹ Lee Sechrest, Susan O. White, and Elizabeth D. Brown, editors, *The Rehabilitation of Criminal Offenders: Problems and Prospects*. Washington, D.C.: The National Academy of Sciences, 1979.

² Douglas Lipton, Robert Martinson, and Judith Wilks, *The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies*. New York: Praeger, 1975.

³ Gene Kassebaum, David A. Ward, and Daniel Wilner, *Prison Treatment and Parole Survival*. New York: John Wiley, 1971. See also Herbert C. Quay, *The Three Faces of Evaluation: What Can Be Expected to Work? Criminal Justice and Behavior*, 4:341-354, (1977).

be found when various recidivistic events are compared has led the Panel to conclude that criminology can produce law-like propositions just as powerful as those generated in the natural sciences.

The Panel devotes 19 pages to the prospects for rehabilitation. Lenihan's study of economic subsidies to property offenders is cited hopefully, and so is a battery of programs aimed at improving the employment prospects for released felons. The Ohio programs of "shock probation," referred to as the "quick dip," is thought to be possibly rehabilitative because what is provided is more in the way of information than punishment . . ." (p. 92) Certainly shock probation is informative; it is also essentially intimidating, and, by the Panel's own definition, which I have quoted above, intimidation is not to be confused with rehabilitation.

There is a concluding exhortation to the whole field of corrections to attempt difficult programs so as to achieve "any real progress. Probably the easy interventions do not work very well." (p. 95) What these difficult programs might be is not indicated, but we are assured that although they might be expensive to test, favorable experience would find a way of making them sufficiently economical to survive.

My account of the Panel's findings is necessarily cursory, and I have had to omit reference to many details of the argument. Nevertheless, I think it is fair to say that the Panel's report boils down to this: We really do not know whether correctional rehabilitation works, or whether it can work, but that rigorous social science research and evaluation can settle the issue.

I think this conclusion is partly right—evaluative research has not settled the value of rehabilitation. I will argue that this line of research cannot settle this issue, and that it is beside the point. The realities of corrections are not to be counted up toward the achievement of goals. The Panel arrived at an all too familiar finding, one which has already led correctional staffs quite unnecessarily into blind alleys of frustration and cynicism. It has given no inkling of a way out, preferring its ruminations about statistical rigor in the conduct of useless and impractical experiments.

RIPE TIME FOR HERESY

I think the Panel got off onto the wrong track and steamed far away from the realities of prisons and youth training schools. Like so many of their contemporaries, they were startled and then hypnotized by the "nothing works" message of despair. Apparently their first concern when starting work on their assignment was to find out if the message was true. What must have been a great deal of time, energy, and money was laid out on a reassessment of the Lipton-Martinson-Wilks critique. To no one's surprise, I suppose, it transpired that, if anything, the Lipton-Martinson-Wilks analysis was too lenient. Once that conclusion was reached, it was understandable that the Panel would cogitate about program integrity and methodological rigor. *At no time did the Panel put its collective mind to the validity of the assumptions that underlie the insupportable view that rehabilitation is an objective of the penal system.*

Let us step back briefly for a look at the teleology of criminal justice. For years it has been a staple of discourse that the objectives of the system are multiple, and that for any understanding of the picture it must be recognized that these objectives are in conflict. Most texts on criminal justice and many essays begin with a recital of these objectives. In years past, I have contributed a good many paragraphs in that vein, but I am not about to write

another here. Among all the other confusions implicit in this philosophizing is the curious supposition that criminals are sent to prison for rehabilitation, and that there is, or should be, a method or methods of rehabilitation that can be reliably carried out in prison. If such a method existed, it could be tested by research and, if valid, put into general application.

There was a crazy logic about the idea which, if not carefully examined, appealed to wishful thinkers, especially those of us who wanted to humanize the prisons. People committed crimes because they were handicapped by the various adversities that had distorted their lives. If we could remove those handicaps, convicts would no longer be criminals. It followed that the prison was not really a prison, it was a kind of social hospital, and those who worked in it were not keepers but healers. Rehabilitation was the objective of the healer, and if his treatment worked the objective would be attained, and the social researcher could measure its attainment by the diminishing numbers of recidivists among those who were exposed to the healing. All this wishfulness had the special appeal of converting the punitive process into something nobler. Helping the handicapped is a much more respectable occupation than locking men into cages.

Surely at this late stage of the 20th century we should all know how spurious is the notion that rehabilitation is an objective of criminal justice in general or of any individual's commitment to prison. Troubled men and women are not to be relieved while shut away from the world. Words to this effect have been eloquently uttered for most of this century, but we still go on measuring the "impact" of rehabilitative programs as though we really still believe that in spite of common sense some kind of philosopher's stone can be found. The hypothesis that rehabilitation can be systematically administered in prison is absurd on the face of it. It does not deserve the endless statistical investigations that have been so persistently lavished on it. *Rehabilitation is not an objective of corrections.* No further research should be commissioned, undertaken, or supported to determine whether "rehabilitative" programs have any effect at all on the reduction of recidivism.

We must clear our minds of the confusions that arise from our preoccupation with the supposed multiplicity of criminal justice objectives. There is only one purpose of the penal system: to administer retribution to persons committing serious violations of the law. We punish criminals because as a society we believe that the commission of a crime should result in adverse consequences to the criminal. We commit some serious criminals to prison because incarceration is as severe a punishment as we can bear to impose. We don't have the stomach for chopping off the hands of thieves, for stoning adulterers, for flogging robbers or for inflicting capital punishment on any but the most depraved murderers. For the present and for the foreseeable future, the prison is the essential instrument for retributive justice for the most serious crimes. To suppose that retribution can be combined with a systematic program of rehabilitation with results that can be measured by needle readings on a gauge of recidivism is to fly in the face of common sense and to ignore what we know about the helping processes. Whether retribution is a purpose that is useful to society is another question on which opinions differ, as they also must on whether the prison is still a legitimate means for inflicting it. It still appears that the consensus in this country—as everywhere else, and throughout human history—is that the stability of society demands that those who commit grave crimes must be severely punished.

When the act of retribution is a prison commitment, there will be accompanying effects. All of them are highly resistant to statistical analysis. We can only make hesitant estimates of the effectiveness of the penal system in deterring potential criminals, in intimidating caught criminals, and in incapacitating confined criminals. General deterrence, intimidation and incapacitation are commonly referred to as objectives of criminal justice. They are not. Society will continue to require retributive justice to be visited upon serious offenders regardless of whether anyone is deterred or intimidated by contemplation of the process—a determination that we have been unable to make. As to incapacitation, we have a rough idea of the numbers of crimes that are prevented by locking up criminals, but we will always be far from precision so long as we labor in the shadow of the dark figure of criminal statistics—the thousands of uncleared offenses.

Nevertheless, when a prison commitment is the chosen sanction, all these subsidiary purposes are served to some extent—always an uncertain extent—with some offenders and potential offenders. That includes all those activities that we have been calling “rehabilitation.”

Some of these helping programs sometimes do change the lives of some convicts. It is wishful thinking to count on them. At legislative hearings before appropriations committees wishful thinking has often been translated into promises, but less so now than formerly. In an administrative staff meeting or in a graduate students' seminar, where blackboard diagrams or flip-charts can be considered instead of human realities, various abstractions about rehabilitation including evaluation methodologies, may still impress participants. Those who work directly with offenders will persist in their doubts about the relevance of mathematics to the understanding of human relations. They know that interactions between human beings resist standardization while they are under way, no matter how “professional” one of the parties may be. They know that the elements of chance will make fools of those who would predict the future of anyone who has suffered the personal disaster of the conviction of a crime and the ensuing punishment of incarceration. It is not in the nature of the human condition that standardized methods can be prescribed to bring about certain changes in future behavior. If the expectation once persisted that such changes could be effected so reliably that the results would be reflected in the data of recidivism we have known better for a considerable time now.

Heresy? In the face of the National Research Council's pronouncements, what I have written so far must be so defined, although I had thought that most of those who are conversant with correctional reality had long since given up the idea that rehabilitation is an objective toward which correctional workers should strive, and their achievement of which should be the criterion of their success. But the

orthodox view of the matter is going nowhere, even when orthodox routes are faithfully followed. It's time for creative heresy.

Returning to Warden Heinze's simply stated opinion that if we must lock up convicts in an Adjustment Center, we must have programs to keep them constructively occupied, I argue that this principle is justification enough for the administration of any of the activities that we have designated as coming under the heading of rehabilitation. There are three choices open to a warden. He may put his prisoners to work, he may offer them opportunities to improve themselves, or he may let idleness prevail.

Putting prisoners to work is difficult, especially in a society with anxieties about unemployment. It can be done and it should be done, but it will not be generally done throughout the country for the foreseeable future. The value of full employment in a prison is self-evident when the damage done by general unemployment is considered. Failing the full employment prison, the next best choice is the prison in which convicts are encouraged to help themselves. Instead of fretting about the relative effectiveness of this or that program as measured by recidivism, we should concern ourselves with finding out what kinds of programs prisoners themselves will choose and see to it that they are provided. The opportunities for the prison to help are innumerable; the problem is to make them available. Whatever a prisoner can be induced to do for his self-improvement should be possible for him to do—at least as a general principle. Whether it is transcendental meditation or an advanced college course, or group counseling or vocational training in welding, the questions that have to be asked are, how many want it, how many can complete it, and how many do complete it? A lot of prisoners will go out and offend no more because of such programs, but it will always be a gamble. The determinants of recidivism will never be under full social control.

What is unacceptable, as Mosteller stated, is “fooling around with people.” One way of fooling around with offenders is to lock them up and let them stew in their own juices. It's a choice that is made disgracefully often. If we are to rule out rehabilitation opportunities because a statistician has counted all the raps on the rap-sheets and discovered that rehabilitative programs don't work, what other choice is allowed the warden but to let idleness and its accompanying evils reign?

It is an absurd situation when the social scientist becomes so engulfed in methodological esoterica that he cannot allow himself the time to reflect on the realities underlying the data. This is what has happened to the National Research Council's Panel, it has found the right answers to the wrong questions, because it did not do in the first place what sound investigation requires: the formulation of the right questions at the beginning of the work to be done.

Letter to the Editor

Crime and the Use of Prisons

TO THE EDITOR:

In the June 1979 issue of your journal, David Biles concluded that his data from the USA, Canada and Australia support the proposition that "there is a positive relationship between crime and the use of imprisonment" and that they are "certainly sufficient to refute the theory that the greater use of imprisonment will reduce crime." He correlated "imprisonment rate" with "property crime rate," "total selected crime rate" and "total crime rate," and reported coefficients of $+ .508$, $+ .438$ and $+ .354$. This seemed to prove the case.

However, there is a problem. Did he correlate the right variables? I think not. The crucial variable is "imprisonment rate." This refers to "the number of prisoners . . . 100,000 of the relevant population" (text) or "sentenced prisoners per 100,000 population" (table headings). Note that it is per 100,000 population, not per 100,000 offenders or offences.

An analogous problem is that of determining the effect of calling out the fire brigade on the numbers of deaths by fire. If one computed a correlation between "fire brigade rate" and "fire death rate" one would almost certainly find positive correlations, i.e., in areas where the fire brigade is often called out, there are large numbers of deaths by fire. Hence (if I may paraphrase inaccurately) "the totality of the data support the proposition that there is a positive relationship between burning to death and the use of the fire brigade," and the data "are certainly sufficient to refute the theory that the greater use of the fire brigade will reduce deaths by fire."

Of course such a correlation would be spurious, both variables being related to a third factor—the frequency of fires. A town with a lot of fires would probably have both more deaths and more fire brigade activity than one

with few fires. Similarly areas which have a lot of crime naturally have a lot of people imprisoned.

What we should do, of course, is to use as our "imprisonment rate" the number of persons imprisoned per 100,000 offenders, or offences. This is a measure of one's chances of being imprisoned if one commits a crime. I have done this with a data supplied by Biles, and calculated the correlations between this measure and the various crime rates which he quotes. The coefficients in this case were $-.087$, $-.271$ and $-.349$. One is effectively zero; the other two are clearly, but not dramatically, negative. Jurisdictions which imprison a large proportion of offenders tend to have relatively low rates of crime.

This does not in itself prove the deterrence theory. Apart from possible artefactual effects, the correlation is open to other interpretations. For example, it is possible that high crime rates lead to more use by the courts of community treatment, and a proportionately lower use of imprisonment because the prisons are overcrowded and expensive. However, these negative correlations, which are similar to many others reported in the literature, are consonant with a deterrence theory. I am cautious in drawing conclusions, but as this is a reply let me say that it seems likely that a greater use of imprisonment on its own would, at some cost, probably reduce the incidence of victimisation to a small extent, and if coupled with an increase in the certainty of detection and conviction would probably have a more marked effect.

One conclusion which the data do not support is that drawn by Biles. It is highly improbable on his own data, let alone the rest of the evidence, that a greater use of imprisonment would lead to an increase in crime.

April 17, 1980

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Reviews of Professional Periodicals

THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY

Reviewed by EUGENE H. CRAJOSKI

"The Policy Implications of Education Research: Some Issues Raised by the Fishman Study of Rehabilitation and Diversion Services," by Ronald Roesch and Raymond R. Corrado (Winter 1979). In this space, over the years, this reviewer has more or less regularly deplored the methodological nitpicking evident in many articles reporting on criminological research. One cannot come away from a long experience, in critically reading social science research reports, with the conviction that social science research is sufficiently telling to confidently guide social policy. Seldom is any such research conclusive and even

less often is it immune to methodological sniping. The faith that defective research, when published, will somehow ultimately lead to sound research may be warranted but it appears that the goal may be reached more quickly if concern for method is not allowed to obscure the research fodder.

This article begins as a "critique," of the rather well-known study done by Robert Fishman, of the effectiveness of a number of New York City rehabilitation and diversion projects. The authors here engage in what some call meta-evaluation or, in fact, an evaluation of an evaluation. (Like lawyers suing lawyers, the evaluation of an evaluation was bound to come.) Although the article initially appears as interecine jabbing, it winds up with a valuable concept of necessary principles for sound evaluation research.

Fishman's study relied on data encompassing 2,860 clients from 18 projects which purportedly were repre-

sentative of 53 projects involving close to 30,000 clients. Fishman suggested that the results of his study provided a sufficient basis for a policy decision to discontinue rehabilitation and diversion services. The authors of this article contend that Fishman's study was methodologically flawed on a number of counts but particularly in regard to sampling. They assert that the groups selected for study by Fishman represented less than a 10 percent nonrandom sample of possible subjects for the study. Therefore, no generalizations are warranted beyond those in the study sample. They conclude that Fishman's findings of high recidivism and incidence of violent crime were prematurely and unjustifiably applied by him to a discrediting of the rehabilitation and diversion programs.

After, not too harshly, putting Fishman down, the authors proceed to a development of a worthwhile model for evaluation research. It's not bad but it's not especially new or revealing. They refer to "construct validity" and recommend using multiple measures of key constructs. They score Fishman for using the single rearrest measure of the construct "reduction in crime." They speak of internal validity and the importance of utilizing comparison groups. Again, they take Fishman to task for using a control group whose experiences were not fully in line with those in various treatment groups.

They stress the importance of having both process and outcome evaluation. Without monitoring what a program is supposed to be doing, an outcome evaluation is likely to be meaningless. In this regard, the authors suggest that the failure of diversion, as alleged by Fishman, "may not actually be a failure of diversion per se but a lack of appropriate and necessary services and interventions." This kind of defensive argument, the reader will recall, was widely used against the initial Martinson findings. The argument in the case of the Martinson Study was that correctional programs had not the resources to do or had not actually done the rehabilitation procedures they were supposed to do and therefore a simple measure of the results could not address the effectiveness of the procedures.

Given the profound limitations of evaluation research at the present time, this reviewer is in strong agreement with the end remarks of the authors: "the greatest use of program evaluation at present is not in determining whether a program is successful in a general sense, but rather in providing specific information about certain aspects of a program . . . Information such as this can provide valuable feedback to a program and can lead to changes which might ultimately effect (sic) overall outcome."

"A Response to Roesch and Corrado," by Robert Fishman (Winter 1979). Fishman, in a rather brief response to the above article criticizing his work, dispassionately rebuts specific points by Roesch and Corrado. Unlike many exchanges of this kind, neither side has resorted to sardonic commentary and Fishman manages to disagree with his critics in a neat manner.

He remains reasonably satisfied with the "representativeness" of his sample pointing out that 2,860 people is a large number of people regardless of percentage, and especially when one considers that fewer than 100 subjects have been involved in many important criminological studies.

In regard to the important criticism on the lack of a control group, Fishman argues that apart from the theoretical desirability of a control group, an evaluation without a control group can still be useful. He states:

"Suppose that in this evaluation it had been found that all clients recidivated, or that none did, and there was no control group of any kind. It is clear that the relevant policy makers could and would have been able to translate such a finding into an appropriate policy. Their decision would have been based on an implicit comparison with existing criminal justice system recidivism rates, which would, in effect, constitute the equivalent of a control group."

Fishman handily disposes of the criticism that he should have used other outcome measures involving noncriminal behavior (e.g., increased employment) in addition to the single rearrest measure. This, he asserts, would have confused independent and dependent variables and would have required an elaborate and intricate deductive chain of doubtful validity.

Finally, Fishman indicates that abolishing the subject programs of his evaluation study was not his recommendation. He declares that his recommendation, based on his evaluation findings, was to continue and perhaps expand the programs "in the sense of educational and employment services but from non-crime control sources, e.g., the Department of Labor, and that diversion services be continued for clients with non-serious present or past criminal charges but not for those with present or past charges of violent crimes against strangers."

CORRECTIONS MAGAZINE

Reviewed by OMAR G. RIOS

"Who will care for the 'Mad and Bad,' " by Rob Wilson (February 1980). This article deals with what is considered to be the largest single health care problem within prisons—the severely mentally ill. Most prison wardens and sheriffs agree that caring and coping with the mentally ill inmate is a major problem and a minor budget item. Even without surveys to assess their situation, it is safe to say that the seriously mentally ill inmates are receiving inadequate treatment or no treatment at all.

Little pressure has existed on corrections officials to attend to the mentally ill inmate and there have been few guidelines specifying what psychiatric care for the incarcerated should consist of. The article discusses why administrators from mental health and corrections agencies feel they are best qualified to handle the mad and bad, and points out how neither wants to deal with them. Transfers are frequently made from prisons to mental health facilities and back enough so that the A.M.A.'s Corrections Program calls it "ping-ponging" and an attorney for ACLU's National Prison Project calls it "bus therapy." Further discussed is the treatment vs. custody debate which has existed in other phases of prison management concern. Ethical conflicts are also mentioned. It is generally recognized that if one expects improvement of the mentally ill inmate then a therapeutic environment must exist. "The more extreme view in mental health circles is simply that people who are mentally ill do not belong in prison."

This article deals with a contemporary controversial subject matter and presents contrasting approaches to handling the mentally ill inmate.

"Has the Bail Reform Movement Stalled," by Stephen Gettinger (February 1980). During the 1960's the bail reform movement in this country was aimed at depopulating the jails, at restoring the presumption of innocence and at "implementing the Eighth Amendment's dictum that 'excessive bail shall not be required.'" The author presents a brief historical review of bail since the American Colonies, the rationale for requiring bail, and cites this country's history of commercial bail having been the source of much scandal and corruption. The bail reform history of the Vera of Justice's Manhattan Bail project who pioneered release on recognizance in 1961 is traced. The ROR Project was followed with the Manhattan Summons Project in 1964. Police had authority to issue "desk appearance tickets" which set court dates in misdemeanor cases and that help to unclog the courts and further reduce jail populations. The Vera Institute also pioneered alcohol diversion projects, pretrial diversion programs, supported work programs and victim/witness assistance projects.

During the 1950's, Illinois devised the "10 percent cash alternative" plan. This plan allows the defendant to post 10 percent of the bond directly with the court. If he makes all required court appearances the money is returned to him; however, if he fails to appear then he becomes liable for the full amount of the bond. California passed a similar law that will go into effect January 1, 1981. The law, however, will apply only to misdemeanants. Before the California Supreme Court is a tax payer's suit, *Van Atta v. Scott*, seeking to overturn the entire bail system because needless incarceration results in waste of tax payer's revenue.

In June 1976 Kentucky outlawed commercial bail bonding and in its place set up pretrial services agencies which offer different forms of release. Oregon law provides that the judge "shall impose the least onerous condition" to assure court appearance.

This article also cites examples of surveys and studies that demonstrate where bail reform has succeeded in lessening inequalities, saving money and securing speedy release from detention.

Recent re-examination of bail policies has led to consideration for community safety. The concept of "preventive detention" is discussed. "Nine states now have laws that allow a judge to consider community safety as a factor in setting bail." New York City has asked for a law that would deny bail to violent felony suspects with prior records. Washington, D.C., has a law that permits preventive detention after a hearing. Senator Edward Kennedy's proposed Federal criminal law authorizes judges to consider community safety in setting tough pretrial conditions.

In conclusion, this article discusses how locking up the accused in the interest of community safety has been gaining favor.

THE INTERNATIONAL JOURNAL OF THE ADDICTIONS

Reviewed by DAVID M. PETERSEN

"Alcohol Abuse by Heroin Addicts: Review of Research Findings and Issues," by Steven Belenko (October 1979). This review of the existing literature details the extent of alcohol abuse among heroin addicts and discusses methodological issues in evaluating the existing data for this population.

Alcohol abuse has been reported as prevalent among heroin addicts in the literature since at least 1925. Although most studies suggest that alcohol abuse by heroin addicts is an important problem, the estimates of the extent of this problem drinking range from a low of less than 10 percent to a high of some 50 percent. In the author's literature review, studies were grouped by the type of population studied: studies of urban addicts, nationally based addict samples, and European samples. Although the results are quite varied for these three groupings, the literature suggests that a reasonable minimum estimate is that 20 to 30 percent of addicts have had or have an alcohol abuse problem. Moreover, it is clear that alcohol abuse presents a major barrier to the successful treatment of addiction. Discharges from methadone maintenance treatment programs as a result of alcohol abuse have been reported as high as 25 percent in some localities. In evaluating the existing data on alcohol abuse by heroin addicts, the author notes the difficulty in making precise estimates about the extent of problem drinking, the patterns of alcohol abuse, and the characteristics of this population. Methodological difficulties arise from five basic issues. First, the definition of "alcohol abuse" used. Many studies do not define what constitutes an alcohol problem and objective measures of the amount of alcohol consumed or the length of time drinking are often not constructed and/or reported. Second, lack of generalizability of data across different studies and across different addict subgroups. Studies have dealt with nation samples of addicts, urban and inner-city addicts, as well as European addicts, and it is difficult to generalize from one population to another. Third, the type of survey conducted. Some studies have collected data from all admissions to a drug treatment program, while others have concentrated only on program dropouts. Many samples are not randomly selected and sample sizes have varied considerably. Fourth, the time period of alcohol abuse. Studies have been done based upon data from varying time frames, including prior to the onset of addiction, or following treatment of addiction. The population surveyed may or may not have been in treatment at the time of the study. Fifth, the reliability and validity of self-reported drinking data. Although much research in this area must depend on self-report data, these data are subject to problems of accurate recall, underreporting, or overreporting. Assuming that degree of response bias varies across studies, care must be taken in interpreting the results of these studies. These methodological problems suggest several areas that researchers should address themselves to in order to adequately analyze this problem. Comparative studies of addicts in treatment modalities other than methadone maintenance are needed. In addition, field studies of addicts not in treatment would help clarify the effects of treatment on alcohol abuse. Finally, more careful attention should be paid to the ways in which drinking data are collected. Measures of consumption should be specified in terms of standardized measures of quantity and frequency.

"Outcome Research in Therapeutic Communities for Drug Abusers: A Critical Review 1963-1975," by Richard N. Bale (November 1979). The author reviewed 25 publications, conference presentations, and unpublished reports on treatment outcome of therapeutic communities for drug abusers for the period 1963 to 1975 and provides a methodological critique of these studies and a model for research in this area.

A wide variety of methodological difficulties regarding

research on therapeutic communities are noted, as major limitations existed with most of the studies reviewed. The author discusses in some depth the following points: (1) most studies have concentrated solely on or weighted their samples for program graduates, (2) studies have tended to focus on a single outcome variable, (3) followup location rates are often too small to permit generalizations, (4) the studies are most often retrospective, (5) no studies have utilized a control group, (6) treatment process is often not described, (7) cost effectiveness is not studied, (8) procedures for sampling are often not described, (9) the validity and reliability of self-reported data are not assessed, and (10) we don't know who the patients are. The author speculates that there are a number of good reasons why so little well-designed outcome research is completed. In the first place, outcome is of little real interest to the treatment staff. Second, there exists a pessimism about return rates and concern over the time and resources needed to do research. Third, there exists a lack of trust in self-reported data. Fourth, therapeutic communities are self-sustaining belief systems and view outcome data as threatening. Treatment program staff are skeptical that evaluation results will make a positive difference either to the program's survival or to the improvement of clinical processes. Finally, the treatment staff is often fearful of confidentiality violations. Outcome evaluation for an addiction treatment program can be a formidable task. A great deal of expertise is required, particularly in the design of instruments, research design, and planning for the analyses of the data. A methodology for followup location must be available and the necessary staff trained to accomplish this task. With these thoughts in mind, the author details a model consisting of eight aspects for overcoming the methodological limitations of previous studies. These are: (1) a prospective design should be utilized incorporating parallel instruments at intake and followup, (2) assessment of individuals at followup should be done by personnel other than the clinical staff directly involved, (3) variables should be clearly defined and data should be gathered in a standardized fashion in either interviews or written questionnaires, (4) a sample of all former patients should be followed including both graduates and dropouts, (5) treatment structure and process should be described using standardized instruments whenever possible, (6) the reliability and validity of self-reported data should be verified (e.g., urinalysis, employer records), (7) the cost effectiveness of the program should be assessed, and (8) if different modalities are to be compared a random assignment protocol should be utilized when possible.

PROBATION JOURNAL

(England)

Reviewed by HAROLD W. KELTON

"Court Welfare Work: Practice and Theory," by Harriet Bretherton (September 1979). The probation officer, given the assignment "court welfare officer," discovers that the main responsibility involves the disposition of the children of divorce. The court relies on the officer for information helpful in making sound decisions regarding custody of and access to children. Much is often at stake for the divorced parties petitioning for the court decision. Money and property are usually involved. Thus, the officer must not only compile background information but may be called upon to act as conciliator and counselor. While

there is easy agreement that the overriding objective should be the best interest of the children, there is a great complexity in identifying what might be the best interest. There can be multiple, competing interests resulting in the sacrifice of one for the other. Bretherton discusses these issues giving specific examples and suggestions and comments that this type of probation work—dealing as it does with specific, rather limited objectives—can provide "challenge, excitement, and satisfaction." References are provided.

"In the Throes of Divorce," by David Straker (September 1979). Patterned after the Hennepin County, Minnesota, Program (see "The Divorce Experience," by Daphne Scarr, *Probation Journal*, March 1978), the court welfare staff of Leicestershire offers a "course" to men and women in the process of divorce. There is a small fee, and the course runs for 2½ hours on 3, consecutive Monday evenings. On the last evening, participants are invited to bring their children. Lectures are followed by group discussion, and topics include the legal-social aspects of divorce, the needs of children, and an understanding of "... loss and the phases of loss." Participants have evaluated the course as very helpful, and staff has found that their knowledge and understanding of their work has been enhanced by "an additional dimension." Finally, the Leicestershire staff has produced a 50-page guide for sale to other court workers.

"Through the Eyes of the Probationer," by Martin Davies (September 1979). Employing standard research safeguards, 14 probation officers interviewed approximately 70 probationers to obtain a "consumer" perspective on probation and probation officers. This yielded a profile of the probation officer as the unmistakable representative of the moral order but nevertheless concerned, respectful, and nondirective in counseling. The probation program, itself, was seen as making only "... the most modest contribution to penal policy" A complete tabulation of probationer responses to the series of research questions is set forth in the article. References are also provided.

"Style and Regime in Probation Hostels," by Stuart Palmer (September 1979). Many younger offenders want to stay out of crime, and so a hostel program can be successful if there is understanding of some basic concepts. Hostels are small worlds within the world that surrounds them, and the warden is the leader and ultimate authority of that world. Within this framework, the hostel staff must come to a consensus about their mission. In this, they must be unwavering, all the while recognizing that there is a social system of inmates whose mission is conflicting and criminal in nature. The inmate social system develops a formidable "contra-culture" which can demolish staff efforts where there is no clear and constantly reinforced mission. Staff, then, must recognize the boundary between the social systems and accept inmate power and culture and learn to negotiate with it. Hostel residents might then work to achieve aims held in common with staff. Staff resources should be concentrated at the point where residents cross back and forth to the outside world. Probation officers who can offer a variety of help—counseling, education, job placement—can have success at "resettlement" of hostel residents.

"Scunthorpe Cycling Group," by Douglas Bell (September 1979). Children need love, security, new experience, opportunity, excitement, recognition, and responsibility. These things, often unavailable to delinquent youth, can be provided by way of an outdoor activity club—such as a tour cycling group. Bell, a probation officer, relates

how he organized such a group and gives very complete, step-by-step advice to those who would do likewise. When successful, there is considerable "spin-off" from such a venture. Touring leads to a variety of other activities and skills (visits to museums and contact with other clubs) and requires involvement by family and community figures. Touring can involve weekend trips of 200 miles and plenty of opportunity for boys to learn responsibility, have success, and experience achievement. Not of least importance is Bell's conclusion that delinquent activity is diminished.

"Social Inquiry Reports," by Jenny Roberts (September 1979). At a time when the British probation officer is suffering from low morale, it does not help when the Home Office publishes "research" findings that conclude Social Inquiry Reports (presentence reports) are inaccurate, irrelevant, and much of the time unnecessary. In this review article (Review of Social Inquiry Reports: A Survey, Home Office Research Study, No. 48, HMSO), Roberts suggests the report was designed and executed to support predetermined biases. She notes inconsistencies such as the conclusion that reports are too long in the face of another conclusion that reports have a "high rate of absence of information." In short, the study is seen as prejudiced in design, implementation, and conclusion. References are provided.

THE BRITISH JOURNAL OF CRIMINOLOGY

Reviewed by HARRY W. SCHLOETTER

"Moving Home, Leaving London and Delinquent Trends," by S.G. Osborn, Research Assistant, University of Cambridge, Institute of Criminology (January 1980). This article describes a research project which is a part of the Cambridge Study in Delinquent Development, a long-term survey of 411 males drawn from the school population of an inner-city neighborhood of London with a high rate of delinquency. The home addresses of members were sampled at various stages of the survey, and even though widespread clearance and reconstruction had taken place during the 17 years of the study, it was found that only a low proportion of the sample had been living in the same house throughout. This report investigates the various aspects of the relationship between leaving home and delinquency.

The author briefly identifies a number of studies, such as the Chicago Studies of Shaw and McKay in 1942, which showed that crime tends to be concentrated in particular areas. The various studies have also shown that the rates tend to be highest in industrial areas, which is characterized by both poverty and overcrowding and lowest in rural areas.

The methodology utilized in this project is as follows: The sample was selected at age 8 to 9, from six adjacent State primary schools. The intake area is spread through seven London postal districts and the main sample investigation comprised 397 men who were still alive and in the United Kingdom on their 22nd birthday. These men were traced for interviews on three occasions after intake: at age 14, at age 16 and at age 18. Delinquency status was related either to the actual ages when interviewed or to the corresponding midpoint age in the case of un interviewed men. The delinquent status was defined by an entry in the Criminal Record Office for an offense

of a kind routinely recorded there and was based upon the date of offense rather than the date of conviction.

The conclusions point out that delinquents moved home more frequently than nondelinquents, but not because they more often left the parental home. The author points out that delinquency seems likely to be associated with a relatively unstable home situation and that frequent changes of address by the family as a whole reflect that instability. Those already delinquent were as likely as others to move out of London, but moving out was significantly associated with a smaller incidence of subsequent convictions. It is suggested that attitudes conducive to delinquency were unchanged, but that circumstances associated with living out of London provided less opportunity and temptation.

"Juries, Foremen and Verdicts," by John Baldwin and Michael McConville, respectively, Lecturer in Judicial Administration and Lecturer in Law, University of Birmingham (January 1980). The authors of this article wished to examine the effects of various changes made in the selection of juries as a part of a larger study they were carrying out into the workings of juries in Birmingham. For purposes of research, they received from the Crown Court in Birmingham details of each juror's name, sex, age, occupation, race and number of prior jury settings for every trial in which a jury was impaneled during a 21-month period in 1975 and 1976. In addition, court officials identified each foreman and recorded exact details of challenges, majority verdicts and the length of jury deliberation.

Sections dealing with the composition of juries, the right to challenge, the social characteristics of jury foremen, majority verdicts, verdicts returned and the length of jury deliberations are all explored. The authors' conclusions point out that the days of handpicked juries have long past and the last 20 years have seen an end to the rules which insured the jurors only being selected exclusively from a narrow social base. By 1976, the abolition of the proper qualifications had dramatically affected the composition of juries. The authors confidently state that since the Criminal Justice Act of 1972 was passed, the jury is much more representative of the wider community than any other body given the task of making decisions in the criminal process. They point out that in their opinion, the jury now approximates the ideal of a representative cross section of society. Their final conclusion states that "unrepresentative panels undermine the premise upon which the whole judicial system ultimately rests—that justice is seen to be done."

CANADIAN JOURNAL OF CRIMINOLOGY

Reviewed by VERNON FOX

"Deterrence Theory: A Reconceptualization," by Stephen D. Webb (January 1980). Deterrence comes from the Classical School of Criminology, in which man was seen as fundamentally hedonistic, seeking pleasure and avoiding pain on a "free will" basis, resulting in criminal behavior being deterred by swift, certain, and severe punishment. Recent investigations have focused on the celerity (swiftness), certainty, and/or severity of punishment. Rational choice based on calculation of relative pleasure or pain appears to be far too simple to provide adequate explanations of deterrence. A typology differ-

entiate between offenses that are impulsive (some murder), compulsive (drunkenness), or instrumental (prostitution, amateur shoplifting, white-collar crime, organized crime). Those acts that are impulsive or compulsive apparently do not respond to legal sanctions. As Chambliss has pointed out, it is unfortunate that most criminal-legal effort has been against persons least likely to be deterred by legal sanctions.

"Juvenile Diversion: Conceptual Issues and Program Effectiveness," by Gary Reker, James E. Côté, and Edward J. Peacock (January 1980). The Law Reform Commission's Working Paper identifies four types of diversion, (1) community absorption, (2) screening and referring back to the family or dropping the case, (3) pretrial diversion, such as settlement or mediation, and (4) alternatives to institutionalization, like restitution, fines, service orders, absolute or conditional discharge, suspended sentence, probation, community-based residence, or supervised release programs. An evaluation of seven studies of juvenile diversion outcomes revealed positive results in five studies, negative results in one study, and one indicated that diversion had really resulted in a few more juveniles being brought under control. Several suggestions for future research suggest use of more evaluative criteria than simply recidivism, better evaluation of treatment programs, and better focus on the integrity of the diversion programs.

"A Situational Theory of Rape," by Lorne Gibson, Rick Linden, and Stuart Johnson (January 1980). According to some criminologists, criminal behavior can be understood from either a genetic or a situational perspective. The genetic approach focuses on criminogenic processes in the early development of the offender, either biological or defective socialization. The situational approach focuses on the location, time, people and other circumstances related to the deviant act. While genetic factors may create a "pool" of potential rapists, the situational contingencies determine who ultimately commits the rape, according to a review of all 344 reported cases of rape in Winnipeg for a 10-year period, 1966-1975, of which 281 "founded" cases were studied. Contributing situational factors were facilitating times, facilitating places, facilitating hardware (knives), facilitating others (two or more men), facilitating actor (offender), and facilitating circumstances which combine to facilitate rape.

"A Second Evaluation of the Rideau Inmate Volunteer Program," by Paul Gendreau, Doretta Burke, and Brian A. Grant (January 1980). In 1974, the volunteer program was begun at the Rideau Correctional Centre of the Ontario Ministry of Corrections with inmates working 5 days a week at the Rideau Regional Centre for the mentally retarded and the geriatric unit of the Brockville Psychiatric Hospital. The first evaluation was made in 1976 when a high success rate was reported. This second evaluation is based on data collected from January 1976 to March 1977 on performance ratings using the Hoffman Volunteer Program Acceptance scale, behavioral information collected from staff, a battery of attitudinal scales administered to the volunteers, and other ratings and tests. There were 46 volunteers at the hospital and 51 at the centre for the mentally retarded. The staff in both institutions praised the work of the volunteers and the volunteers, themselves, expressed positive experiences. The attitudes of the volunteers did not change as a result of association with noncriminal others, probably because their attitudes were originally positive which caused them to volunteer. The behavior that did change was in the

vocational sphere, including work skills, responsibility, and relations with staff.

"Ecological Correlates of Crime in Ottawa," by Avtar Singh, Helena Celinski, and C.H.S. Jayewardene (January 1980). The ecological study of crime refers to the patterns of crime through the social and economic conditions in various areas. The data for this study came from the 1971 census publications of Statistics Canada and from the Ottawa Police files. The demographic and sociostructural variables were (a) average rent, (b) proportion of tenant-occupied buildings, (c) male unemployment per 1,000, (d) female unemployment per 1,000, (e) number of persons per room, (f) number of children per family, (g) median income, and (h) persons per family. Crimes in the police files were collected for 1 week for 4 months during the summer 1972, including (a) crimes against persons, (b) sexual offenses, (c) property offenses without violence, and (d) offenses against the public order. Significant negative relationships were found between total crime rates and (1) average cash rent, (2) median income, (3) persons per family, and (4) proportion of tenant-occupied dwellings. Male and female unemployment, proportion of tenant-occupied buildings, and number of persons per family were related to crimes against persons, theft with violence, and crimes against the public order. The predictors were highest for sex crimes. The conclusion was reached that, except for sex crimes, the ecological factors considered in this study were considered to be useless as predictors.

SOCIAL WORK PERIODICALS

Reviewed by HARVEY TREGER

"Against the Family," by Leonard Schneiderman (*Social Work*, September 1979). The author, dean of the School of Social Work at Indiana University, Indianapolis, states that the United States has no national policy on "the family." Frequent references to the family in the press, professional and academic literature and elsewhere contribute to the discrepancy between rhetoric and reality. Factors contributing to this situation are: (1) the celebration of individualism, of doing "one's own thing," as an ultimate value in American life; (2) the unspoken agreement that a family must break up before the community is willing to help; (3) an analysis of social problems that blames the victim; (4) society's inability to define what is meant by the "family"; and (5) the increasing numbers of people who simply are not a meaningful part of any family. The author believes that it is unlikely that a national policy on "the family" will emerge in the foreseeable future. As an interim measure he urges adoption of social policies and programs that will assure all children the basic nurturance needed for growth and development. Guidelines for these policies are suggested.

"Burnout: Smoldering Problem in Protective Services," by Michael R. Daley (*Social Work*, September 1979). This article explores why caseworkers in protective services are especially susceptible to becoming emotionally burned-out and describes various strategies for the management of stress and prevention of burnout among workers. Burnout is defined as a reaction to job-related stress that varies in nature with the intensity and duration of the stress itself. It may be manifested in workers'

becoming emotionally detached from their jobs and may ultimately lead them to leave their jobs. It is viewed as a dynamic process illustrated by some of the following behaviors: The worker makes a sharp distinction between personal and professional selves, e.g., not discussing work at home; the worker minimizes his involvement with clients by keeping physically distant from them or by sharply curtailing the interviews; the worker becomes a petty bureaucrat, going strictly by the book and viewing clients as cases rather than as people. A phenomenology of burnout which may be useful to supervisors is described on personal and organizational levels. It is suggested that remediation of stress must be conducted on the basis of individual assessments and that efforts to prevent burnout must be individually tailored to each worker. Suggested strategies to prevent burnout include: the use of sanctioned timeouts, or time away from the job, supervisory support, peer group support systems, and the judicious rotation of job assignments. Also recommended are supervisory-worker discussion of problems, merit raises, promotions, training programs, and increased staff communication that will reduce feelings of isolation and increase support. The worker also needs to learn to manage his own stress through personal stress management techniques, Yoga, physical exercise, deep breathing, etc. In conclusion, the author states that burnout may indicate that some people should be counseled out of the field.

"Working With Prostitutes: Probation Officers' Aims and Strategies," Eileen McLeod (*The British Journal of Social Work*, Winter 1979). This small sample survey examines probation officers' aims and strategies when working with street prostitutes within the context of the street offences act and the results of their work. The sample was obtained retrospectively in spring 1975. Sample size was 20 representing a total of 120 officers' work. Fifteen prostitutes were supervised throughout the first 9 months of probation by the same probation officer. Five prostitutes were each supervised by two probation officers during this time. The officers were a cross section of backgrounds, training, males and females, etc. The sample presented one or two possible sources of bias. It was drawn from inner city areas where material deprivation was common. The sample did not contain any "high class" prostitutes or call girls so that it is likely the sample only consisted of young beginners. Most of the women had at least two previous convictions for soliciting. The author appropriately states that any conclusions from this small survey must remain tentative however they could suggest a hypothesis which could later be tested more rigorously in subsequent studies.

The findings indicate probation officers fail in their main aim of encouraging street prostitutes to stay within the law because of the women's intention to do otherwise. The officers' strategy of defining and tackling prostitutes' legal, emotional, and material problems on an individual basis also leads to little impact on such problems. The article suggests that probation officers might more profitably adopt noncorrectional aims when working with street prostitutes and consider alternative social work aims.

In conclusion, the author draws a parallel between the economic similarity of the street prostitute and the single woman with a family to care for. It is suggested that one to one contact with a probation officer is superficial and at the behest of the probation officer. It is thought that since these women are affected by a wider social process, women's groups might be more helpful in supplying the kind of assistance and support needed.

The role of the probation officer could be to introduce the women to such groups.

"Assessment in the Life Model: A Historical Perspective," by K. Jean Peterson (*Social Casework*, December 1979). This is a detailed scholarly analysis of the subject which at times seems somewhat esoteric. The author in her summary describes the article as "a historical review of assessment in the life model using the study-diagnosis treatment paradigm and updates this construct by adding ecological theory. Transition to this approach has led to changes in the gathering and conceptualization of information and a broadened perspective of applicable interventions for practice. After reviewing the semantics of the term assessment Professor Peterson concludes that all theoreticians are writing about the same concept. The influence of the mechanistic view, field theory, and general systems theory are discussed.

In discussing assessment the author states, "the way in which the problem is defined determines what data is relevant, the direction of inquiry to be pursued, and the factors to be emphasized. The concept of "value traps" is intriguing and a kind of bottom line item "if your values are rigid you can't really learn new facts" . . . and can be forced into a premature diagnosis.

The article is organized around the traditional casework concepts of study, diagnosis, and treatment. In the area of study, the differences between three major theorists in regard to what information should be gathering is cited: "Richmond, gathering everything in order to assure objectivity; Hamilton, emphasizing that relevance of the information to the client's presenting problem and stressing the social factors involved; Hollis emphasizing the characteristics of the individual as they relate to the presenting problem and other areas the client may not see."

The concept of salience is discussed and illustrated by the malfunctioning of a motorcycle. "When a motorcycle starts malfunctioning one must respond to what thrusts itself into attention, and then gather relevant information about this aspect of the motorcycle. It makes little sense to gather information about the electrical system of the motorcycle if the malfunction is a flat tire. In social work, one must know enough about the various systems (man-kind, environment, and their transactions) and know how they are interrelated to be able first to define which parts of the systems are malfunctioning and then to gather information about these in order to maintain or regain a balance. One must also know how intervening in one system will reverberate into other systems . . . Problems in living are not the result of internal processes alone, but rather the consequences of the interactions among the various elements of the ecosystem."

The diagnostic process is viewed as a classification system for dealing with the information and making predictions. A number of conceptual and classification systems are discussed including Gitterman and Germain and Studt.

In the life model the helping process includes anything that will provide the necessary conditions for clients to work on their defined tasks.

The value of this article for probation officers is that it is a synthesis of the literature which can help to jar one loose from a routinized practice and a single point of view to look at range of frameworks and nuances in approaching the presentence investigation. This article could be useful in a symposium on the subject at regional training conferences for probation officers.

Your Bookshelf on Review

EDITED BY BENJAMIN FRANK, PH.D.

Sentencing Reform: Certainty, Equality, and Control of Discretion

Just Deserts: Sentencing Based on Equality and Desert. By Richard G. Singer. Cambridge, Mass.: Ballinger Publishing Company, 1979. Pp. 219. \$17.50.

Law professor Richard Singer examines the philosophy of criminal sentencing based on commensurate desert and suggests how reform might be implemented. Concurring with previous research, he rejects most sentencing policy because it is unequal and does not rehabilitate or deter, but also because it fails to emphasize the moral blame of the offender. Singer favors a cumulative criminal code requiring punishment in proportion to the harm caused by the offender. The book ends with a survey of much recent state legislation and a model sentencing statute. Singer believes most current legislation fails to produce equality in sentencing, but he is optimistic that state governments are proceeding correctly.

Professor Singer's review of previous reforms and related literature generally is well organized and clearly presented and his notes and bibliography, while not exhaustive, will be useful to readers initiating a search for pertinent literature. His reform model also includes several compromises on rehabilitation, probation and recidivism which will appeal to criminal justice employees, conceivably facilitating adoption of new policies. Nevertheless, while arguments for equality always are appealing, there is little in this new work which persuades that his reforms will reduce crime or improve prison life. The author perhaps has tried too greatly to satisfy objections to his reforms from practitioners.

Moreover, much of the author's analysis of how reform may relate to current institutions and practices is imprecise and frequently relies on the author's own judgment or intuition than on existing empirical research which describes and frequently explains actual judicial system outcomes. For example, at one point Singer doubts the value of empirical research for policymaking because it is not sufficiently precise and findings are subject to change (p. 42) but he defends even more abstract philosophy while readily admitting that "... real life neither allows nor requires such precision." (p. 43) Explaining recent criticism of judicial discretion, he states that "... time simply caught up with judiciary." (p. 9) We deserve a more thoughtful and complete explanation. In one discussion he states that criminal justice distributes punishment randomly (p. 23), but other discussion reveals that he probably means that it is *constantly* unequal, but not random. Elsewhere Singer questions the effect of public opinion on legislative policymaking, correctly suspecting that many people attribute too much importance to this very fuzzy and all-inclusive concept, but he also writes of "... our normal reaction ..." (p. 72) in wanting to punish recidivists more severely. Whose normal reaction, we might ask. Singer also argues that the "average member" of the community understands the process by which lengthy judicial sentences are reduced by parole boards to a small fraction of the original term imposed by judges (p. 115). He cites no evidence for this claim,

and the opposite hypothesis actually seems more persuasive, for there are numerous opinion surveys which suggest that most citizens have only limited substantive knowledge of government generally and that the judiciary practically is invisible and poorly understood.

The author sometimes poses excellent issues for discussion, but his normative arguments would have more impact if they were well grounded in previous empirical literature. His reform model also falters because he avoids or drops important political issues. For example, he states that reducing variation in prosecutorial discretion within states "... might ultimately have to be resolved by some statewide mechanism, which could be evolved over a period of time." (p. 131) This is too obscure to be of much value. Singer also believes that plea bargaining can be reformed "... if good faith efforts are made by all involved." (p. 128) We might hope so too, but good faith is not a very convincing basis for political reform.

Perhaps the broad scope of his project contributes to these problems, since the author touches on so many features of the criminal justice system in a relatively short volume; nevertheless, they detract from the possible value of Singer's reform model.

Florida State University

HARRY R. GLICK

The Classic Report on the American Prison

On the Penitentiary System in the United States and Its Application in France. By Gustave de Beaumont and Alexis de Tocqueville. Carbondale and Edwardsville: Southern Illinois University Press, 1979. Pp. 222. \$5.95. Originally published in 1833.

The authors were young men, ages 29 and 26, respectively, from the French aristocracy sent to the United States in 1831 to observe an enlightened prison system that had become a model for the rest of the world. They spent several weeks in New York studying the penitentiary on Blackwell's Island and the Bridewell of New York City, as well as Sing Sing and Auburn. They visited the Eastern Penitentiary and Walnut Street prison in Philadelphia, as well as prisons in Baltimore, Connecticut, and elsewhere. By the time they returned to France, they had become ardent admirers of the American institutions and recommended their replication in France.

All civilized countries need some methods of dealing with offenders. In the preface written by Francis Lieber, the original translator, reference was made to Pongloss, who was shipwrecked on the coast of Portugal and inferred that he was in a civilized country because he had seen men in chains.

The first feature to attract the attention of the authors was the classification of inmates according to their crimes and the separate cells that resulted in absolute isolation. The Pennsylvania system and the Auburn system recognized the value of segregation and isolation to avoid moral contamination, but the Auburn system maintained that isolation by silence during congregate labor and retained the beneficial results of working.

Fermented liquor is prohibited in the United States and inmates drink water, alone, unlike France. In Amer-

ica, the inmate who possesses wealth lives like the poorest of them, all inmates being treated alike. Meals in American prisons are all prepared alike, either within the institution or catered by outside contractor. Wealthy prisoners in France can buy anything they want. In the eating houses in French prisons, inmates can buy what they desire. The abuse of alcohol, particularly wine, is available in French prisons. Further, prisoners in America are never idle.

The prisons in America and in France appear to reflect the general values of the people. Political and cultural leadership in America came down from a deeply religious heritage with historical ties to the Puritans, Quakers, and other religious groups, many of whom had fled Europe in search of religious freedom. This has given the American people a heritage of high morality and need for penitence and forgiveness. On the other hand, the French appear to be more practical and utilitarian, tending to move in public affairs with less stringent morality.

The whip was defended as a brief and painful experience, but did not require social isolation that may be counterproductive to the ultimate objective of the penitentiary. Pennsylvania was the only state that continued to protest against corporal punishment.

The authors conclude that the American system should be implemented in France. Its effectiveness lies in the classification and separation of inmates to avoid moral contamination, enforced labor to promote good work habits, and restricted environment to avoid many of the abuses that exist in French prisons. The prison system remains a reflection of the society it serves. Some of the insights brought by these two young French social historians have profound implications for all human relationships. They observed the effects of extreme social isolation on mind and body, but recognized the need for individual reform of offenders. They recognized the effect of social isolation and schizophrenia a century before their appearance in the social science literature. This reviewer found *On the Penitentiary System in the United States and Its Application in France* most enlightened, interesting reading, and with historical insights and materials as applicable in 1980 as they were in 1833 when the book was first published. It should be part of the personal library of everyone interested in corrections.

Florida State University

VERNON FOX

Theories and Policy Issues Facing the Criminal Courts

The Study of Criminal Courts: Political Perspectives. Edited by Peter F. Nardulli. Cambridge, Mass.: Ballinger Publishing Company, 1979. Pp. 285. \$22.50.

The nine chapters in this book of readings form a triptych: the central "panel" of three articles explores theories to explain criminal courts, flanked by an introductory panel on criminal courts as dispute processing institutions, and a concluding group of essays on specific policy issues. This anthology avoids the diversity of "pictures at an exhibition" because of a similarity of outlook among the nine authors—all empirically oriented political scientists—and close collaboration among them stemming from a roundtable discussion at the 1978 American Political Science Association meeting. The authors are active in research and writing about trial courts, are obviously acquainted with one another's work, and have apparently engaged in exchanges of ideas during the writing and editing of this book—factors which account for some strengths

and weaknesses in what is, on balance, an important contribution to the literature on courts.

Given the solid achievements of the nine contributors (Herbert Jacob, Frances Kahn Zemans, Austin Sarat, James L. Gibson, Peter Nardulli, Herbert Kritzer, Roy B. Flemming, Milton Heumann, and Beverly Blair Cook) one expects the volume to at least live up to its modestly stated goal of attempting "to catalogue at least some of the significant advances in our understanding of criminal courts that have occurred over the past decade." It does this and also expands our mental horizons in thinking about courts. The authors generally resist the temptation merely to restate their past work, and offer instead extensions of their previously published ideas.

Gibson, Nardulli, and Kritzer, in the central "panel" impose "external" theories to explain the courts: role theory, organization theory, and political culture. Gibson's use of a sociological construct which has in the past proven to be as empirically weak as it is heuristically strong is perhaps the boldest theoretical foray in the book. Gibson relies on his previous research to show that role theory is a useful model for predicting decisional behavior rather than outcomes when role orientations are conceptualized as weights attached to different decisional criteria. This approach is a unique application of role theory and seems to be more sensitive to empirical data than its earlier use by sociologists. It does, however, alter the received idea of role theory. Nardulli provides a useful review of organizational analyses of criminal courts and suggests that organizational theorists of the next generation may incorporate factors which are now beyond their interest. This point may well reflect the editor's sensitivity to the quality of the diverse theoretical inputs of this volume. Kritzer presents a dense review of data and literature to show that political culture can be used as a primary rather than residual explanation of the courts, although, in this reviewer's opinion, the mixed results suggest caution in accepting political culture as a satisfactory or primary theory at this time.

The first three chapters by Jacob, Zemans, and Sarat display thematic coherence by focusing on dispute processing rather than dispute settlement as an explanation of criminal courts. Jacob, drawing on victim survey data and the Vera Institute's study of New York criminal courts, demonstrates that in related party cases the function of the courts is to process continuing disputes between known parties while in the more stereotypic stranger crimes the courts do settle disputes and enforce norms whether by adjudication or negotiation. Zemans expands the concept and offers the dispute processing model as a major improvement on administrative-bureaucratic-organizational theories. This model focuses on aspects of the criminal incident, interpersonal relations of all actors, and their views on the accessibility of the courts. While an interesting theory is proposed, any claims as to its superiority must wait for actual testing. Sarat posits that the "nasty business" of the criminal court precludes ideal operation. Thus, major and conflicting criminal court paradigms create unrealistic demands for strict legality, social defense, and social service. In their place, Sarat proposes a paradigm of "disjointed incrementalism" a strategy to accommodate competing concerns, compromise, and a need to "get the job done." Sarat's chapter is written with elegance and wit, is grounded in a broad and accurate picture of how courts operate and are perceived, and offers not only a theoretically stimulating idea but an anodyne for harried chief judges and court administrators.

Part III concerns policy issues. Flemming's study of policymaking and adaptation in pretrial release strategies

in one court, Heumann's reflections on plea bargaining, and Cook's review of recent sentencing studies and reforms are important to those who are concerned with bridging the gap between theory and practice in a time of change. A detailed explication is not possible here, but these three essays are most satisfactory on theoretical and policy levels.

The essays differ in the extent to which they are explicitly "political." The first three chapters seem to be written from a sociological vantage point while the later chapters are more obviously the product of political scientists. Another interesting feature is that the authors are all skeptical about the ability to change or "reform" the courts. Given their close empirical study of trial courts they are close to the actual needs and constraints faced by these institutions. Would-be reformers must pay attention to this, if sound and lasting improvements in court processing are to be had.

The book lacks a historical perspective. Several chapters could have offered richer concepts if, for example, Thurman Arnold's insights into the symbolic and practical aspects of the courts were considered. The chapters on dispute processing do not consider the larger political context of local courts or the kind of law they enforce. Attention to the historic division between tort and crime in medieval England should yield important notions about the context of basic court functions.

It should be noted that each chapter (not only the middle three) is concerned with a theoretical understanding of how courts operate. The diversity of models suggested in *The Study of Criminal Courts* shows that empirical political science has obviously not found a common paradigm for understanding our society's chief dispute processing/settling mechanism. This is understandable, given the short time that social scientists have been seriously concerned with trial courts. The richness of the differing approaches in this book, given the current stage of development of court studies, is welcome and intellectually exhilarating. This is an important book which should be required reading for serious students of the trial courts.

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MARVIN ZALMAN

Crisis Intervention Techniques

Helping People in Crisis, 1st Edition. By Douglas A. Puryear. San Francisco: Jossey-Bass, Inc., Publishers, 1979. Pp. 225. \$13.95.

The decade of the 1970's saw, what many people feel to be, the beginning of a new professional interest in the broad general area of crisis intervention and conflict management. This movement spanned not only the traditional helping professions such as psychiatry, social work, and medicine, but also the fields of law enforcement, corrections, and other related services. Out of this new interest came a proliferation of monographs, textbooks, and other articles all dealing with the issue of people in crisis. While many of these previous articles were of sound quality, an equally large number presented the topic of crisis intervention in a highly structured, academic, and impractical manner. Dr. Puryear's book is, however, a refreshing change from the usual writings on this topic. From the very onset, he has achieved his purpose in making this a practical approach to dealing with people who help other people through crisis.

Although this book presents a sound theoretical foundation, it also devotes a healthy portion to specific techniques of how to do it.

Dr. Puryear makes it very clear that "the goal of crisis intervention is to restore equilibrium . . . the goal is not personality change or change in family structure, that is, changes in the basic pattern of functioning." While some people may criticize this approach as being too narrow or lacking specific followup, this reader feels that this is a very important issue to be addressed by practitioners of crisis intervention. All too often, professionals have fallen prey to attempting to solve all of the client's problems and as a result have done very little more than to confuse the client and raise, even further, their level of anxiety and conflict.

Throughout the nine chapters, Dr. Puryear brings to bear his expertise in providing the reader with a sound theoretical foundation coupled with generous and appropriate examples of theory application. Such examples are clear, concise, and can be easily related to the variety of helping professions to whom this book is directed.

Dr. Puryear continually emphasizes that "problem solving is the backbone of the crisis intervention approach . . . and helps define your role as a worker." The author is both balanced in his sensitivity to the needs of clients as well as the need of all helpers to maintain and promote a sense of self-direction and independence in the client.

Perhaps the best clarification of Dr. Puryear's approach is his caveat to the reader "you are not an expert at solving client's problems for them. You are an expert in the process of problem solving—that is, how to go about doing it." This point is continually reinforced throughout the book and is especially appropriate in chapter six.

Another area which the author deals with in some detail is chapter seven which addresses Closing the Intervention and Follow Up. This is perhaps one of the most critical areas in the whole spectrum of crisis intervention and one which is often neglected by many practitioners.

In summary, this book should serve as an excellent resource for not only the seasoned practitioner, but also for the beginning professional who wishes to develop his or her basic skills in this most important area of the helping professions.

Augusta, Maine

RAYMOND K. CONIFF

Lexicon of the Court Process

Juvenile Justice. By H. Ted Rubin. Santa Monica, California: Goodyear Publishing Company, Inc., 1979. Pp. 299.

The author is a distinguished jurist and social worker who has provided an overview of the contemporary juvenile justice system. Eleven of the 12 chapters are headed by three poignant questions that serve as a guide to each chapter. Material is covered in a methodical and logical way and is enhanced by a comprehensive bibliography.

Legislative trends are towards harsher sentencing for repetitive offenders, proportional sentencing, and lesser judicial discretion. What will follow punishment is an interesting question. Another problem facing the court is the question of whether status offenders should be completely diverted from court. The resolution of this issue will shape the future course of the court. Diversion to community agencies has not provided significant improvement of services.

Focus on due process has created an adversary role in the juvenile court. There appears to be a clash between due process and *parens patriae* rather than a mesh. The author touches upon some very important concepts in noting that probation services usually occur weeks and months after the offense when "perception of cause and effect is lost." The client sees beating the system through

the adversary process in some instances. There is a distortion of reality by a guilty parent to the child. The medical model of treatment appears to have encouraged this reaction in the parent who then becomes very defensive of the child and the child's activities.

Court personnel, nonlawyers, are challenged regarding their authority and ability to make decisions at the first level of screening. "Decisions," the author indicates, "may be as invisible and arbitrary by the prosecutors." The juvenile court may be so involved in an adversary process that the focus of probation services is minimized. Defense lawyers may be a good balance and technical defenses may be a legitimate defense, but *parens patriae* is an eroded concept.

"The great conflict for a parent's lawyer occurs when he must argue his client's desire, although the parents may be totally incompetent and may, in fact, have severely injured the child, yet this is the lawyer's ethic; and to do less may mean the parents have had an inadequate representation and that the adversary system of justice has been compromised." This is a quote from the Dependent/Neglect chapter and is an excellent argument to get out of an adversary proceeding on dependent/neglect cases. The principle should be what is in the best interest of the child.

The author's assessment that discussion of the future of the juvenile court seems to come from all corners except the profession that has been most closely associated with the positive aspects of the juvenile court, i.e., the probation officer is accurate. The court can't provide solutions to all problems and the closing quote which is most appropriate is, "I'm sorry we can no longer help you or your child, the community, not the court, has to help you find the way." It is a professional injustice not to include this book "as a must" to read.

Chicago, Ill.

SUZETTE FEHER

The Attica Movie: Telling It Like It Was

"Attica." Reviewed by William Wilbanks
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On March 2, 30 million viewers from across the Nation viewed a 2-hour movie on ABC television entitled "Attica." The "docudrama" was based on a book (*A Time to Die*) by New York Times columnist Tom Wicker who was one of the observer/negotiators during the 5-day siege in September of 1971. The movie brought to mind again one of the most tragic episodes in American penal history and raised many questions in the minds of viewers who watched the TV portrayal of those events. My conversations with those who saw the movie suggest that two questions are uppermost in the mind of viewers. First, people want to know if the events portrayed on the screen are the "way it really was?" Second, viewers want to know what happened after the riot was quelled—were inmates and state officials who committed illegal acts punished?

I was one of nine members of the New York State Special Commission on Attica (dubbed the McKay Commission after the chairman, Robert McKay) which spent a year investigating the events surrounding Attica. Our citizens' commission, funded by the State, issued a written report (published by Bantam under the title: *Attica: The Official Report of the New York State Special Commission on Attica*) in September of 1972 along with a 90-minute television report shown nationwide on PBC stations on September 13, 1972. Those reports dealt with the causes of the riot, the reasons for the breakdown in negotiations

and why so many lives were lost. My comments on the accuracy of the movie will be based on my experience as a member of the McKay Commission. The update on the prosecution effort is derived from newspaper accounts.

In most respects the movie was remarkably faithful to Wicker's book (which I consider to be a fair and accurate description of the Attica events which he describes) but like the book focuses only on a brief time period—the time that Wicker was present at Attica. Since Wicker did not witness the beginnings of the riot or the police assault and rehousing of inmates, little attention is given to those events in the book or the movie. The focus is on the negotiation process. However, the movie/book leaves many questions unanswered since most of the controversy surrounding Attica involves the cause of the riot and the retaking of the institution.

The movie did reflect some of the underlying tension between a rural white guard force and a militant (largely Black and Spanish) inmate population and the dissatisfaction of inmates with Commissioner Oswald's promises (but lack of action) of reform. However, the "unbelievable" (from a retrospective point of view) failure of security efforts were not portrayed on the screen. No riot plan existed for the institution and the only means of communication was by a telephone and thus many guards, hearing a disturbance coming their way, stayed at their post to become hostages since they could not get through to the warden (the line was busy when they called) for permission to leave their post. Likewise, everyone had faith that the Times Square gates would hold up (they were literally pushed down—no key was used as depicted in the movie) if a disturbance broke out in a hallway (as it did). Yet no check on the strength of the gates had ever been made.

My greatest objection to the movie/book lies in the impression left with viewers of the situation that existed in the yard during the 5 days. The movie led us to believe that the inmates were united and that there was democracy in the yard with the voting down of the 28 points (holding out for amnesty, the dismissal of the warden and flight to another country) being the will of the vast majority. The Commission reported that the great majority of inmates wanted out of the yard and would have given up the first day but were prevented from leaving the yard by the inmate security force on orders from the "leadership" who wanted to demonstrate solidarity. Inmates were afraid to dissent from the "recommendations" of the leadership since they were afraid of the consequences of dissent (three inmates were killed by other inmates during the riot for acts disapproved by the leadership). The leadership wanted amnesty since they were aware they would likely be charged with the murder of the guard and the three inmates—thus they manipulated the "vote" to reject the 28 points without amnesty. The movie probably left most viewers confused as to why the inmates rejected the 28 points. In short, I believe that Wicker (and the movie) accepted the ostensible democracy which was presented to him in the yard during his brief visits there—perhaps George Romney might say he was brainwashed.

Wicker's political bias (he is an avowed liberal) appears at times in the movie/book. For example, he is at pains to document the racism of the guards and troopers and yet virtually ignores racism on the part of the inmates. He does not report on one observer's speech to the inmates urging them to get revenge on "Whitey," the rape of white inmates by blacks during the siege, the racial tension in the yard, etc. And yet Wicker does not impugn the motives of State officials (as did Herman Badillo in his account of

Attica—A Bill of No Rights: Attica and the American Prison System) or of the inmates (as did Commissioner Oswald in his account—(*Attica: My Story*). Viewers who believe the account by Wicker is biased should read the accounts by Badillo and Oswald for comparison. Overall, Wicker's portrayal is balanced.

My second major objection to the movie is that it suggests that in the police assault virtually all of the troopers (and some corrections officers) fired their weapons indiscriminately killing unresisting inmates in mass. The McKay Commission reports that only a few troopers fired at all and that it is likely that only a small number fired indiscriminately. If the massive firing depicted in the movie had actually occurred far more casualties would have resulted. The facts are that 39 persons (including 10 hostages) died of gunshot wounds from the assault with an additional 80 being hit with gunfire (thus one of every 10 persons in the yard was hit). Most of the casualties can be attributed to the lack of vision due to the tear gas and gas masks, the inappropriate firing of shotguns from great distances, attempts to "pick-off" inmates who held knives to the throats of hostages, attempts to protect one trooper who was attacked by inmates in the yard when he ran toward the hostages, etc. The McKay Commission does document numerous cases of indiscriminate firing and "reckless endangerment" with weapons but the film exaggerates the extent of police misconduct. A better idea of the assault can be obtained by viewing the actual police video-tape of the retaking which is part of the Commission's visual report.

The movie is also silent with respect to another aspect of Attica—the brutality which occurred during the rehousing of the inmates after the riot was quelled (the beating of the hostages by the inmates in the initial takeover was also not shown in the movie). Corrections officers and troopers who were filled with anger over the treatment of the hostages and what they viewed as inaction and even capitulation by the authorities vented their hostility on the inmates when order was restored. The Commission report documents the widespread beating of inmates by guards and troopers after the riot and the failure of State officials to prevent this illegal conduct (the administrative failure is inexcusable in light of the expectation of such reprisals in the aftermath of the riot).

National Guardsmen and other outside observers confirmed widespread beatings and verbal abuse of the vilest nature. Reprisals were especially severe in segregation where the suspected inmate leaders of the uprising were taken. Forty-five percent of the inmates who had been in the yard suffered bruises, lacerations, abrasions, and broken bones as a result of the action by State officials in the aftermath of the riot. In short, many criminal assaults by State officials occurred in the rehousing of inmates.

But what has happened since the end of the Attica riot? A special prosecutor was appointed to pursue criminal prosecutions and a grand jury was empaneled in the rural county where Attica was located. This grand jury sat for more than 4 years making it perhaps the longest-sitting panel in American legal history. A second grand jury was empaneled in 1974. Sixty-two inmates were indicted on a total of approximately 1,300 charges (ranging from stealing a key to murder). No State official was indicted until October of 1975 when a single State trooper was indicted for "reckless endangerment" with a shotgun. No disciplinary action was taken by the State against troopers or correction officers. Most of the indictments were eventually dismissed (or those charged were acquitted) though two inmates were convicted at trial (one for murder and

one for assault) and eight pled guilty in return for reduced charges.

Critics began to charge that the prosecution effort was one-sided since the McKay Commission had documented numerous acts by guards and troopers which violated the law. In mid-1975 a member of the prosecution staff (Malcolm Bell) resigned and went public with charges that the prosecution engaged in a coverup of crimes by State officials. Governor Carey (a Democrat who had replaced Republican governor Rockefeller) appointed a special State investigator (Bernard Meyer) to investigate the charges by Bell. Meyer worked for 6 months with eight lawyers and produced a 576-page report which concluded that though there had been no intentional coverup the prosecution had indeed made numerous "errors in judgment" which led to an imbalance in the prosecution. (Bell, in response, suggested that Meyer's report depicted the prosecution as fools rather than knaves while he believed the reverse was true.) Meyer called for a special prosecutor to be named to review all of the indictments and to recommend what further action, if any, should be taken.

Governor Carey appointed Alfred J. Scotti as special prosecutor in December of 1975. After a 4-month investigation Scotti recommended that all but one of the indictments be dismissed and that disciplinary action be taken against some troopers and corrections officers (since a failure to collect evidence initially precluded criminal prosecution with its higher standard of proof).

On December 31, 1976, Governor Carey announced that he was wiping the slate clean by pardoning nine of those convicted and commuting the 20-year-to-life sentence of John Hill (who was convicted of the killing of a guard) so that he became immediately eligible for parole—17 years before he would have been eligible. The governor took this action due to his belief that the State must ensure equal justice for all citizens and that Meyer and Scotti had made it "irrefutably clear" that the State failed "abysmally" in upholding this principle in the handling of the Attica investigation and prosecution.

Since the initial investigation of illegal conduct by State officials had been "deficient" Carey concluded that it was no longer possible to secure even a semblance of equal justice now through further prosecution of State officials. Thus he decided to pardon all involved—both inmates who had been indicted and/or convicted and State officials who should have been charged or administratively disciplined. Carey said: "I now must conclude that the conduct of this investigation and prosecution has been such that we now confront the real possibility that the law itself may well fall into disrespect. Hence, I have concluded that, as Governor, I have the final responsibility to bring this tragic affair to a conclusion which however unsatisfactory, will foster respect for our system of justice as one capable of recognizing and correcting its wrongs We have succeeded in dividing and polarizing the people of this State without satisfying the quest for justice in this tragedy. To continue in this course, I believe, would be merely to prolong the agony with no better hope of a just and abiding conclusion. Attica lurks as a dark shadow over our system of justice. The time has come to firmly and finally close the book on this unhappy chapter of our history as a just and humane State."

Carey further explained that his actions should not be construed as a reflection of a lack of culpability for the conduct at issue. "Rather these actions are in recognition that there does exist a larger wrong which transcends the wrongful acts of individuals caught in the seamless web into which the tragedy of Attica has spun itself. They are in recognition of the immutable principle in our society

that the State itself should not sanction the maintenance of legal proceedings out of harmony with the principles of equal justice."

Certainly all will not agree with Governor Carey that greater respect for the law will result from wiping the slate clean and admitting past mistakes rather than continuing with further prosecutions and punishment of those who were (admittedly selectively) prosecuted. I, for one, am willing to stand with Governor Carey. I, too, believe that Attica was a great tragedy not only in that 43 lives were lost but in that it demonstrated the inability or unwillingness of the State to ensure equal justice under law for all its citizens. I only regret that the television movie told us only part of the tragedy of Attica.

Criminal Law and the Battered Woman

Battered Women. Edited by Donna M. Moore. Beverly Hills, California: Sage Publications, 1979. Pp. 232. Hardcover \$17.50; Softcover \$8.95.

The problem of women who are severely beaten by spouses is as old as mankind, yet it is only in the present decade that anyone has recognized it as more than a "private matter." Even now, attention is paid generally only when a woman is sufficiently injured to require hospitalization, an advanced stage of such chronic abuse which society is forced to heed because of its life-threatening nature.

The purpose of *Battered Women* is to raise the societal level of consciousness to this enduring problem and to urge readers to become actively involved in strategies which will assist such women, who are relatively helpless absent aid from the community. To the extent that the book raises an average person's awareness of the problem, it deserves a place on library shelves. However, a criminal justice professional seeking guidance in policymaking will find this work of little use.

First, the book is a survey-type work written by several authors, each of whom gives a glimpse of her work with battered women or a theory about the battering syndrome. It is basically a summary of a conference held in 1978 at the University of California at Davis, which itself was designed to present an overview of the problem rather than to increase the very small body of knowledge we now have. With the exception of the chapter written by psychologist Lenore Walker, most of the book is irksomely petulant in tone, and reads like a tract in doctrinaire feminism.

The authors want extensive and immediate action from individuals, local communities, and the entire criminal justice system. Yet, the factors essential to orderly planning are missing: reliable statistics on the extent of battering, and reliable evidence of what constitutes battering. The authors admit that no accurate statistics are available, and it is doubtless true that assault and battery between spouses naturally tends to be under-reported. Yet, the text is replete with guesstimates about the extent of interspousal violence, all of which are extrapolated from very limited sources and scattered, severe incidents. Similarly, the definition of battering, which is used alternately throughout the book to mean either physical or psychological damage, is vague and totally unusable in the criminal justice system where the standards must be specific and cases proven beyond a reasonable doubt.

Though real battering is no less ugly for this lack of definition and statistics, the gap between what is suspected and what is subject to specific proof leaves policymaking professionals at a loss to know where to

expand or expand limited personnel and other resources. Faint praise is given in the book to those (mostly unspecified) areas of the criminal justice system which take battering seriously; for the most part, all officials from the cop on the beat to judges of the highest courts reap heavy blame for failing to prosecute offending spouses. I am certain that many cases are not treated as seriously as most of us would desire. Yet, blanket assumptions that police do not respond to desperate women or that district attorneys fail to prosecute serious cases constitute the kind of unsubstantiated rhetoric which badly damages the credibility and the professionalism of the authors. It would benefit the victims, the criminal justice system, and society if more effort were put into developing valid studies in selected areas rather than into mere rhetoric.

Boston, Mass.

MARIE T. BUCKLEY

Comprehensive Study of Contemporary Delinquency

Juvenile Delinquency. By Peter C. Kratcoski and Lucille Dunn Kratcoski. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1979. Pp. 429. \$14.95.

This book is intended as a text to the study of juvenile delinquency. Sixteen chapters comprehensively cover aspects of the field. The text is well written and interspersed with case studies and commentaries. The resource material is timely.

Juvenile Delinquency moves from historical phases, scope and degrees to causation. The changing role of the family is discussed, its relation to delinquency, child abuse, delinquency amongst females and so on. From the family, the text moves to outside institutions as schools, police, diversion agencies, courts and probation departments. Contemporary treatment modalities are presented with a look to the future. An annotated bibliography follows the text to give students further historical and contemporary resource material.

The major question throughout and which is addressed more fully at the conclusion is *should there be juvenile court* and if there is *what philosophy and law will guide the court?* Is the concept of *parens patriae* outmoded or still applicable? Many ideas and facts are presented throughout but more conclusions and resolutions should be advanced.

The female problem is discussed in relation to higher statistics of females involved in crimes, discriminatory detentions and referrals to the court for such offenses as incest and sexual promiscuity. A further progression would be to statistically show how many females are relegated to the responsibility of child care and rearing without adequate resources. The authors point out the poignant factors in the increased violent and property crime and focus in on negligent aspects of treatment for females in the criminal justice system.

The chapter on child abuse and neglect, consisting of 15 pages, seems out of place except that it is under the purview of juvenile court law. Preferably, the topic in this book should be related to future delinquency or status offenses.

William E. Amos noted, "the school, through a combination of public apathy, home neglect, and public pressure, has attempted to become all things to all children without the resources, knowledge or public support to succeed. The school may feed, clothe, teach, treat, transport and counsel our young. These services have been influenced and molded by the middle-class philosophy of our school

as the principal agency to shape our youth." School is often most associated with the ability to get a good job or a job at all for that matter. Unemphasized is the notion that knowledge is a goal in itself and immeasurable as a payoff throughout life.

In recent years, a form of treatment is to divert clients who are guilty of status offenses to programs rather than processing them through juvenile justice system. Should status offenses be removed from the jurisdiction of the court? The proliferation of agencies that deal with status offenses since funding became available is a source of amazement.

Probation has not been the answer to juvenile delinquency but neither has been community treatment or closing of institutions. The dichotomy of punishment versus rehabilitation must be addressed and perhaps both philosophies recognized as viable.

The Task Force Report of the National Advisory Committee on Criminal Justice Standards and Goals (1977) included a list of seven areas of priority for state and local action for delinquency prevention and control. Two important points are: (1) there must be improved planning among institutions responsible for delinquency prevention and juvenile justice; (2) and the implementation of better research and data basis on delinquency and the juvenile justice system.

Juvenile court jurisdictional changes should be carefully thought out in reference to the dichotomy of *parens patriae* and *due process*. Where does the court go from here, with or without a contingency, if the minimization of penetration concept comes to fruition.

Except for the almost consistent use of *he* throughout the text which smacks of jingoism, the chapters are well written. Overall, the book is well worth the time of the student of juvenile delinquency.

Chicago, Ill.

SUZETTE FEHER

After Deinstitutionalization, What?

The Criminally Insane: A Community Followup of Mentally Ill Offenders. By Terence P. Thornberry and Joseph E. Jacoby. Chicago: University of Chicago Press, 1979. Pp. 292. \$19.00.

Starting with the Baxstrom decision in New York in 1966, Federal District Courts in an increasing number of areas have ruled indeterminate commitments to hospitals for the criminally insane to be unconstitutional. The authors of this book use such a decision in March 1971 concerning the Pennsylvania Farview Hospital for the Criminally Insane as the basis for what they call a natural experiment. For the next 4 years they followed the course of 486 men transferred to less restrictive settings by order of the court. Of these, 414 were eventually discharged to the community and were followed there as well.

The research was conducted, and is reported, methodically and thoroughly. After setting the sociolegal stage the authors enumerate the types of offenses and psychiatric diagnosis which led to the dual label of criminal and insane. These men averaged 16 years confinement before release, but the relatively minor amount of violence exhibited while at Farview brought into sharp question the necessity for long-term commitment. Their behavior was no more violent when transferred to less restrictive civil hospitals.

Community adjustment as measured by recidivism (23.7 percent) and dangerousness defined as "any arrest for a violent offense or any re-hospitalization for a violent

act for which the subject could have been arrested" (14 percent) is demonstrated to be more closely related to criminal record than to mental illness. "When compared to non-dangerous subjects, the dangerous subjects were hospitalized more often, younger at the time of their first hospitalization, committed more offenses, and more violent offenses and were younger at the time of their transfer from Farview and spent a shorter time at Farview." The authors stressed the impossibility of making a valid prognosis of dangerousness on these, or other, statistical criteria.

In terms of overall community adjustment as measured by several variables the research demonstrates that the quality of life in the community is an improvement over that in the hospital. The picture which is painted, however, is a very grey one with 72 percent unemployed, and few positive factors which might lead to life satisfaction. The authors stressed the need for more adequate aftercare for these men.

Unfortunately the cogency of the arguments is sometimes diluted by statistical errors. In table 5.3, (p. 82) it is reported that 35, or 24 percent, of 494 patients involved in violent incidents did not require treatment, while 128, or 7.1 percent, had to be removed to medical wards. Obviously, either the number or the percent has been reversed. According to tables 8.19 and 8.20 (pp. 143-44) 95 subjects received chemotherapy, which can only be prescribed by a physician, but only 52 subjects saw a physician. These careless mistakes mar an otherwise excellent work.

The authors' conclusions corroborate previous studies. They question the necessity for large, maximum security hospitals which are both poor prisons and poor hospitals. They stress the pitfalls in the statistical prediction of dangerousness. They feel the great majority of mentally ill offenders need only brief periods of confinement. They strongly advocate diffusion of responsibility for release according to specific criteria, periodic review of all cases, and immunization from liability when a decision to release backfires.

This is a book whose significance extends beyond the conclusions which the authors have drawn. They point out that there is little difference between the adjustments these men make in the community and the adjustment made by those discharged from civil commitment after long-term institutionalization. Unfortunately that is true. Both groups are in the community; neither group is a part of the community. Both groups are in desperate need of a wide range of helping services; neither are getting them. There is the equal probability that both recidivism and re-hospitalization rates would be diminished were these services provided.

Regrettably also, the question of dangerousness is involved in the management of both groups. Recent legislative changes have made it impossible to give involuntary treatment to mentally ill who cannot be certified as dangerous. If it is impossible to make valid predictions of dangerousness in people who have demonstrated such behavior in the past, how is it possible to make such a prediction in the case of someone who has not exhibited such behavior? The result has been to criminalize the treatment of the mentally ill in its legal aspect, while simultaneously insuring that a larger number of them appear in jails and workhouses. This is not because they are dangerous—their lack of dangerousness prohibits their getting treatment, but because they have become nuisances which the community finds no other way to handle. There is an urgent need to distinguish between the anti-social offender who happens to be mentally ill and who

should receive treatment for his mental illness through the criminal justice system, and the mentally ill patient who commits an offense because of a mental illness who should be treated in a mental health system and then released with due regard to the safety of the community. As the authors point out the prediction of that moment cannot be made with any certainty on statistical variables. The authors' suggestions to ease the load of the clinician who must make the decision as to when that moment has arrived are valuable. That decision always represents a balancing of the forces of clinical judgment, political realities, and philosophical value systems. I am not sure, however, that spreading responsibility will cure the C.Y.A. syndrome.

Toledo, Ohio

HENRY L. HARTMAN

Watch Out for Reform

Urban Politics and the Criminal Courts. By Martin A. Levin. Chicago: The University of Chicago Press, 1977. Pp. 331. Paper, \$6.95.

The thesis of this book is that the nature and quality of criminal justice, particularly sentencing, in a community, are strongly governed by the nature and quality of the political climate in that community. Specifically, it contrasts and compares these ingredients in Minneapolis and Pittsburgh, based on observations made in 1966 and 1967.

Levin categorizes Minneapolis as a "good government," reformist model, in which judges are elected on a non-partisan basis, the bar association playing a larger role than the political parties. Pittsburgh is a "traditional," political city, in which the judicial nominees on the ballot are identified by political party.

Minneapolis sentencing is severe, compared with more lenient sentencing in Pittsburgh. Levin is surprised at this, or expects the average reader to be surprised at it. It is not surprising to those familiar with a similar finding in the autobiography of Lincoln Steffens; or their own observation (disappointment) at what sometimes happens when reform administrations replace political administrations.

This is useful wisdom. Communities vary in the sentencing patterns of their judges. All one has to do to be aware of this is to look at the list of states arranged according to the average length of sentences, or the average use of probation and imprisonment. The states vary greatly in these respects, and Levin's book suggests some, but by no means all of the ingredients that make for the differences.

Its contribution is, however, quite limited. The mode of selection of judges is only one part of court reform programs; and this part is not treated comprehensively. The pattern of appointment of judges for life, as in the Federal system and some states, is not discussed, yet it probably contrasts most sharply with other selection modes, more sharply than the contrast between selection in political and "good government" places. Or, there is civil service selection, as in some European countries. The Minneapolis/Pittsburgh contrast is in averages. There are great differences among the judges in both places. The ingredients that make for considerable individual differences among judges within each system are minimally considered.

The book's focus, after noting the differences in political setting and judicial selection, is to consider what effect these differences have on reducing crime. The discussion is almost entirely unrelated to the Pittsburgh/Minneapolis

data. Again, as in its study of only two modes of judicial selection, the sentencing alternatives are dealt with simplistically, and its conclusions, stated tentatively, are not firmly based, although that is also true of larger studies of deterrence and recidivism.

The principal choices considered are probation or imprisonment, and short and long terms. But there are studies that suggest less traditional approaches. West and Farrington found (as others have) that "as far as detected and convicted delinquents are concerned, the effects of being convicted are usually the opposite of reformative. It could be that for some offenders swift and certain punishment is a salutary learning experience, [Levin's conclusion] as well as a comfort to society, but more often than not the damaging side-effects of what is done to the offender more than counteract any intended benefits." (See John P. Conrad, "Research and Development in Corrections," *FEDERAL PROBATION*, June 1979.)

The book has a chapter on sentencing policy recommendations, based on other studies rather than Minneapolis/Pittsburgh. The statement (page 175) that "during the last two decades, in almost all jurisdictions, terms of incarceration have been shorter than in the past" is to exaggerate the duration of the downward trend, and—for a statement in 1977—to miss the reversal to an upward trend by half a dozen years. The statement related to it that "the disadvantage of long terms of incarceration have not had much chance to show themselves" is grossly off the mark. Almost every study of sentencing at least after World War II spends considerable time on the lengthening of sentences in this country. The shortening of terms of imprisonment in the latter 1960's was a remarkable interruption in an otherwise steadily upward rate of imprisonment versus probation, and in length of terms of incarceration. Levin's sentencing recommendations fail to take into account the experience during these ups and downs.

Levin's study also considers the behavior of attorneys, the problem of court delay and its impact, and plea bargaining. Although it is inconclusive in the basic lessons to be drawn, the discussion of the two systems is good reading on judicial behavior in which the interested reader can indulge in worthwhile rumination.

Deerfield Beach, Fla.

SOL RUBIN

Reports Received

Adult Probation in the United States, 1980. William A. Goldberg. Professor Emeritus, School of Criminal Justice, Michigan State University, East Lansing, Mich., 1980. Seventh Edition. Pp. 118. This publication contains a state by state summary of the adult probation statutes and practices in the United States, Puerto Rico, the American dependencies, England, Scotland, Wales, and the Provinces of Canada. The book is on sale for \$11.00 at Gibson's Bookstore, East Lansing, Michigan.

Alternatives to Incarceration: the Basic Issue and a Glossary. Prison Law Monitor, Institution Educational Services, Inc., 1806 T Street, N.W., Washington, D.C. 20009. Vol. 2, No. 6, November-December 1979. Pp. 133-168. This issue of the Prison Law Monitor focuses on alternatives to incarceration. In addition to the lead article, other articles include Juvenile Totality Litigation; a cross-cultural analysis of the use of prison; alternatives approaching the eighties; and the Minnesota Community Corrections Act. The standard features of each issue are the sections devoted to case notes, including Supreme Court activity; disciplinary and classification;

mail problems and censorship; good time; parole grant; and other selected criminal cases.

American Indians and the Criminal Justice System in Minnesota. University of Minnesota, Center for Urban and Regional Affairs, 311 Walter Library, Minneapolis, Minn. 55455. This report is the first of two reports which attempt to develop a detailed description of the relationship of the American Indian to the Minnesota Criminal Justice System. The purpose of the study was to develop a statistical comparison of the treatment of American Indians, blacks, and whites from arrest through incarceration. The survey and the report were completed by Dr. Roger Benjamin and Choong Nam Kim, his graduate assistant.

An Analysis of Zoning Reforms: Minimizing the Incentive for Corruption. U.S. Department of Justice, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., 1979. Pp. 41. The sources of corruption in the theory and practice of zoning are examined and a number of zoning reforms are proposed that can be considered by planners, zoning commissioners and others involved in land use regulation.

An Anticorruption Strategy for Local Governments. U.S. Department of Justice, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., 1979. Pp. 55. This is volume 3 of a 2-year study of problems of local government corruption in land use and building regulations. It describes a counter corruption strategy that can be implemented by city administrators to monitor the performance of employees and to increase their understanding of what constitutes corruption and how to avoid it.

Bail Out: The Community Bail Fund Organizing Manual. American Friends Service Committee, 1414 Hill Street, Ann Arbor, Mich., 48104. The Bail Fund is part of a program begun in 1974 to find a practical alternative to the money bail system. This manual describes the founding group's experiences and offers a way to explore and change the justice system at the local level.

Coercive Use of Behavior Control Drugs in Correctional Institutions. Prison Law Monitor, Institution Educational Services, Inc., 1806 T Street, N.W., Washington, D.C., 20001. Vol. 2, No. 4, August 1979. Pp. 23. This issue of the Prison Law Monitor features an article on the coercive use of behavior control drugs by attorney Peter B. Sandman, National Center for Youth Law, in addition to its monthly survey of case notes on a variety of inmate legal problems and a roundup of prison news and legislation.

Connecticut Institutional Furlough Program. Connecticut Department of Correction, Research Division, Hartford, Conn. 06115, 1979. Pp. 8 with statistical appendix. This report describes the furlough program in operation in the State's correctional institutions with comparisons to similar programs in several other states. An appendix furnishes statistical data on the numbers and types of furloughs granted during the fiscal year 1977-78 for each institution in the State correctional system.

Contemporary Corrections: Featuring Reviews of Recent Correctional Literature. The Prison Journal, 311 S. Juniper Street, Philadelphia, Pa. 19107. Spring-Summer Issue 1979. Pp. 72. Published semiannually by the Pennsylvania Prison Society, this issue of the Journal contains several full length review essays of recent publications. Professor Schwartz comments on 20 recent books on criminology; Mr. Wallenstien reviews three books on jails; John Conrad reviews Silberstien's popular book on

criminal justice. In addition, the issue has two articles: "Corrections and the Native American Client" and "Does Coed Prison Work?"

Corruption in Land Use and Building Regulation. U.S. Department of Justice, Law Enforcement Assistance Administration, Washington, D.C., September 1979. Pp. 207. This is volume 1, Report of Conclusions, of a 2-year study conducted by the Standard Research Institute International of problems of local government corruption in land use and building corruption, including corruption involving government contracts, land-use and building regulations, personnel matters, and a variety of other issues.

Crime and Punishment: Some Thoughts on Theories and Policies. Radical Alternatives to Prison, 182 Upper Street, London N.1, England. May 1979. Pp. 42. This pamphlet contains three articles by Stanley Cohen, Sociology Department, University of Essex, and originally published in March 1979 in New Society. The first article considers the contradictory implications of current criminology; the second article discusses the question of alternatives to prison and the ideology of a community control system; and the third presents an agenda for a type of middle level practical reforms. The reprint is available from RAP for fifty pence.

Developing Prisoner Self-Help Techniques: The Early Mississippi Experience. Prison Law Monitor, Institution Educational Services, Inc., 1806 T Street, N.W., Washington, D.C. Vol. 2, No. 5, October 1979. Pp. 27. The review of legal case notes and court decisions in this issue covers categories of discipline and classification, good time credit, parole grant and revocation, damage actions, and recent developments in juvenile law. In addition special articles feature organizations working with prisoners, self-help techniques for prisoners' rights advocacy, and a discussion of the revised Federal Criminal Code.

Discretion, Determinate Sentencing and the Illinois Prisoner Review Board: A Shotgun Wedding. Chicago Law Enforcement Study Group, 109 North Dearborn Street, Chicago, Ill. 60602. This report reviews the responsibilities of the Illinois Prisoner Review Board, the successor to the Parole and Pardon Board when Illinois abolished discretionary parole release. Specific areas addressed include executive clemency, adult parole release and mandatory supervised release, parole revocation, and revocation of good conduct credits. Copies are available from the Chicago Law Enforcement Study Group for \$3.00 a copy.

Establishing a Citizens' Watchdog Group. U.S. Department of Justice, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., 1979. Pp. 129. This is volume 5 of the SRI International project on the study of local government corruption in land use and building regulation. It discusses procedures for establishing a citizens' group to expose corruption and bring pressure for reform.

Federal-State Law Enforcement Committees. The National Association of Attorneys General, Committee on the Office of Attorney General, 3901 Barrett Drive, Raleigh, N.C. 27609, September 1979. Pp. 35. In this report, the organization of such committees is described and the areas in which they can improve the administration of justice are outlined. The price of this publication is \$3.00.

Games for Criminal Status: Justice as Order Through Structured Social Inequality, by Gunther Grewe, Peter

Lang Publisher, Frankfurt am Main, European University Papers, 1979. Pp. 129. The purpose of this study is to develop a model of the processes leading to the differential distribution of immunity in society and to show that the processes leading to criminal status have their parallel in everyday life, i.e., a sequence of encounters which can be analyzed as games for social status.

Incarceration and Its Alternatives in 20th Century America. U.S. Department of Justice, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., November 1979. Pp. 76. This report, written by David Rothman, is first a survey of the concepts and treatment of the criminal and the mentally ill in the United States from 1870 to 1940; and second an analysis of what happened when the progressive prison programs were put into effect and why they failed in both the field of criminal justice and mental health.

Juvenile Justice and Delinquency Prevention Programs. Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C., October 1979. Pp. 32. This publication furnishes the information to assist communities and agencies in the development of full applications for Federal grants and assistance under the national delinquency prevention program which gives major priority to Youth Advocacy through the use of Special Emphasis discretionary funds.

An Organizational Approach to Correctional Effectiveness. Kevin N. Wright, Ph.D., Department of Criminal Justice, The University of Tennessee at Chattanooga. The Pilgrimage Press, 1979. Pp. 83. In this short book, Dr. Wright confronts the proposition that correctional evaluations have been unable to demonstrate that any correctional program is more effective in reducing recidivism than any other method. In a reaction to methodological inadequacies of past studies, Dr. Wright proposes to develop a system's model of evaluation to assess the ability of correctional organizations' attempt to reduce the probability of recidivism.

Organized Auto Theft. The National Association of Attorneys General, Committee on the Office of Attorney General, 3901 Barrett Drive, Raleigh, N.C. 27609, July 1979. Pp. 73. Auto theft is apparently changing from one of amateur theft for "joy-riding" to one in which more organized, professional operations are stealing cars and their parts for resale. This report discusses ways in which states become more active in combatting auto theft and response of the Federal Government, insurance industry and automobile manufacturers. The cost of this publication is \$4.50.

Police and the Social Order: Contemporary Research Perspectives. Research and Development Division, National Council for Crime Prevention, Stockholm, Sweden, June 1979. Report No. 6. Pp. 387. This volume is the product of an international conference on police research. Twenty-four papers presented at the conference held in 1977 in Stockholm are published, each of which summarizes research in various aspects of police work.

Prison Law Monitor. Institution Educational Services, Inc., 1806 T Street, N.W., Washington, D.C. 20009, January 1980. Pp. 169-192. The lead article in this issue of the Prison Law Monitor by Benson B. Weintraub is the "Effect of Inaccurate Presentence Investigation Reports on Criminal Sentences and the Conditions of Confinement." In addition to the usual case notes on court decision, there is also an extensive discussion of the impact of Greenholtz on parole eligibility determinations.

Sovereign Immunity: The Tort Liability of Government and Its Officials. The National Association of Attorneys General, Committee on the Office of Attorney General, 3901 Barrett Drive, Raleigh, N.C. 27609, September 1979. Pp. 102. This report surveys the extent to which state and local governments are liable for injuries resulting from governmental activities. The doctrine of sovereign immunity, its abrogation by the courts, and the principal kinds of governmental liability statutes are discussed. A companion volume entitled "Official Liability: Immunity Under Section 1983" was published in July 1979. Both volumes are available at \$5.00 each.

State Open Meetings Law. National Association of Attorneys General, Committee of the Office of Attorney General, 3901 Barrett Drive, Raleigh, N.C. 27609. A three-volume study of state open meetings law is now available from the above address for \$18.00. The first volume (March 1979, 135 pp.) is titled *Open Meetings: Exceptions to State Laws*. Volume 2, *Open Meetings: Types of Bodies Covered* (June 1979, 63 pp.) and Volume 3, *Open Meetings: Actions and Meetings Covered* (101 pp. November 1979).

Success on Parole: A Study of the Process of Change From Delinquent to Lawful Behavior. Health and Welfare Agency, Department of the Youth Authority, Sacramento, Calif., September 1979. Pp. 35. This is an Interim Report which details the results of phase one of a study begun about a year ago. The analysis published in this document is based on interviews with matched samples of 45 successful and 45 unsuccessful parolees. The second phase—200-250 Youth Authority wards are being interviewed before parole and will be followed up for a year to determine if parole performance can be predicted from the interviews.

Summary Parole: A Six and Twelve Month Follow-up Evaluation. Research Unit, California Department of Corrections, Sacramento, Calif., 1979. Pp. 193. In this report, "summary parole" is defined as a reduced level of parole supervision. The purpose of the project was to examine the impact of the reduced level of supervision upon subsequent known parolee criminal activity levels. The results of the evaluation are a comparison of the 6- and 12-month criminal outcomes of selected parolees randomly assigned to receive either summary or regular supervision.

The Utilization of Official Crime Data. Research and Communication Division, Ministry of the Solicitor General of Canada, Ottawa, Ontario, Canada, 1978. Pp. 129. The research on which this publication is based explores the question of the extent to which the UCR data could be used as variables in developing a factor theory. It demonstrates that no assertions about crime can be based on the UCR (Canadian) system without a consideration of the influence of the peculiarities of the police administration system.

Towards Delinquency Control. National Institute of Social Defence, Ministry of Social Welfare, Government of India, New Delhi, 1979. Pp. 127. In this publication, an attempt has been made to assess the efficacy of the Children's Act providing for the care, protection, welfare, education and rehabilitation of delinquent children as for those living in delinquency-prone situations.

Understanding the Criminal Justice System. Public Affairs Committee, Inc., 381 Park Avenue South, New York, N.Y. 10016. Public Affairs Pamphlet No. 574, 1979. Pp. 28. In this pamphlet, J.L. Barkas explains the basic principles of the law and procedures of law enforce-

ment, prosecution, the judiciary, and corrections, as well as discussions of reform efforts, plea bargaining, and the role of the citizen in making the system more equitable and efficient. The booklet is available for 50 cents a copy.

Victim Witness Assistance in California: State and Local Program Implementation and Evaluation. Jacqueline Vaughn, Ph.D., University of Redlands, Department of Political Science, Redlands, Calif. 92373. This is Professor Vaughn's doctoral dissertation in political science completed in the graduate division of the University of California, Berkeley. The study describes the program's initiation and includes a complete legislative history of the statutes creating the state's compensation program and a discussion of the nature of Board's decisions at public hearings for compensation claims. The study concludes that the program's survival is due neither to group support nor group antagonism but rather to its low cost and low visibility.

Women in Prison. Prison Law Monitor, Institution Educational Services, Inc., 1806 T Street, N.W., Washington, D.C. Vol. 2, No. 4, September 1979. Pp. 31. In addition to its usual monthly coverage of case notes, court decisions, and legal problems related to prisons and parole, this issue devotes considerable space to the problem of women in prison; a general article on "Women in Prison" by Joan Potter, a free-lance writer, Prisoners' Forum on "Aspects of Life in a Women's Prison," and a lengthy discussion of "Glover vs. Johnson: Totality Litigation Against Women's Institutions"; and a summary of a conference called by the Bureau of Prisons on female offenders in Federal institutions.

Books Received

An Anatomy of Criminal Justice. By Cleon H. Foust and D. Robert Webster. Lexington, Mass.: Lexington Books, 1980. Pp. 325. \$25.95.

Approaches to Criminal Justice Training. By John Fay. Athens: Institute of Government, University of Georgia, 1979. Pp. 252.

Attorneys as Activists: Evaluating the American Bar Association's BASICS Program. By Ross F. Conner and C. Ronald Huff. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 261. \$8.95 (paper).

Beyond Probation: Juvenile Corrections and the Chronic Delinquent. Charles A. Murray and Louis A. Cox, Jr. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 235. \$7.95 (paper).

Biology and Crime. Edited by C.R. Jeffery. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 160. \$5.95.

The British Police. Edited by Simon Holdaway. Beverly Hills, Calif.: Sage Publications, Inc., 1980. Pp. 188. \$8.95 (paper).

Bureaucratic Justice: Police, Prosecutors, and Plea Bargaining. By W. Boyd Littrell. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 284. \$7.95 (paper).

Cases in Corrections. By Michael Braswell and Tyler Fletcher. Santa Monica, Calif.: Goodyear Publishing Co., Inc., 1980. Pp. 222.

Classifying Criminal Offenders: A New System Based on the MMPI. By Edwin I. Megargee and Martin J. Bohn, Jr. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 288. \$7.95 (paper).

Courts and Diversion: Policy and Operations Studies. Edited by Patricia L. Brantingham and Thomas G. Blomberg. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 144. \$5.95.

Counselor Supervision: Approaches, Preparation, Practices. By John Boyd Muncie, Ind.: Accelerated Development, Inc., 1978. Pp. 552.

Correctional Management: Change and Control in Correctional Organizations. By David Duffee. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980. Pp. 407. \$16.95.

Corrections: An Issues Approach. By Martin D. Schwartz, Todd R. Clear, and Lawrence F. Travis III. Cincinnati: Anderson Publishing Co., 1980. Pp. 307. \$12.95 (paper).

Corrections: Treatment and Philosophy. By Louis P. Carney. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980. Pp. 352. \$14.95.

The Costs of Crime. Edited by Charles M. Gray. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 280. \$8.95 (paper).

Crime and Gerontology. By Alan A. Malinchak. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980. Pp. 207.

Crime and Justice: An Annual Review of Research, Volume 1. Edited by Norval Morris and Michael Tonry. Chicago: The University of Chicago Press, 1979. Pp. 348. \$14.00.

Crime and Justice in Urban America. By Herbert Jacob. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980. Pp. 198. \$7.95.

Crime Control Strategies: An Introduction to the Study of Crime. By Harold E. Pepinsky. New York: Oxford University Press, 1980. Pp. 352. \$9.95.

Crime in American Society. By Charles H. McCaghy. New York: MacMillan Publishing Co., Inc., 1980. Pp. 357. \$16.95.

Criminal Detainers. By Leslie W. Abramson. Cambridge, Mass.: Ballinger Publishing Company, 1979. Pp. 208.

Criminal Investigation Standards. By Joseph Deladurantey and Daniel Sullivan. New York: Harper and Row Publishers, 1979. Pp. 444. \$15.95.

Criminal Justice Research: Approaches, Problems and Policy. Edited by Susette M. Talarico. Cincinnati: Anderson Publishing Co., 1980. Pp. 396. \$14.95.

Criminal Violence, Criminal Justice. By Charles E. Silberman. New York: Vintage Books, 1980. Pp. 745. \$2.95 (paper).

Criminalistics and Scientific Investigation. By Frederick Cunliffe and Peter B. Piazza. Englewood Cliffs, N.J.: Prentice-Hall, Inc., Publishers, 1980. Pp. 422. \$16.95.

Criminology and Crime Policy. By Denis Szabo. Lexington, Mass.: D.C. Heath and Company, 1979. Pp. 230. \$25.95.

Critical Issues in Juvenile Delinquency. Edited by David Shichor and Delos H. Kelly. Lexington, Mass.: Lexington Books, 1980. Pp. 347. \$17.00.

Earl Warren: The Judge Who Changed America. By Jack Harrison Pollack. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1979. Pp. 386. \$14.95.

Foundations of Criminal Justice. By William Mathias, Richard C. Rescorla, and Eugene Stephens. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1979. Pp. 575. \$16.95.

The Future of Childhood and Juvenile Justice. Edited by LaMar T. Empey. Charlottesville, Va.: The University Press of Virginia, 1980. Pp. 422. \$20.00.

Helping People in Crisis. By Douglas A. Puryear. San Francisco: Jossey-Bass, Inc., Publishers, 1979. Pp. 225. \$13.95.

In Defense of Whom? A Critique of Criminal Justice

- Reform.* By Gregg Barak. Cincinnati: Anderson Publishing Co., 1980. Pp. 138. \$8.95 (paper).
- Introduction to Law Enforcement.* By George L. Kirkham and Laurin A. Wollan, Jr. New York: Harper and Row Publishers, 1980. Pp. 429. \$15.95.
- Introduction to the Criminal Justice System: Principles, Procedures, Practice.* By Gerald D. Robin. New York: Harper and Row, Publishers, 1980. Pp. 558.
- Joys of Counseling.* By Daniel Sinick. Muncie, Ind.: Accelerated Development, Inc., 1979. Pp. 230.
- The Justice Imperative: An Introduction to Criminal Justice.* By Lewis R. Katz. Cincinnati: Anderson Publishing Co., 1980. Pp. 447. \$16.95.
- Juveniles in Justice: A Book of Readings.* By H. Ted Rubin. Santa Monica, Calif.: Goodyear Publishing Co., Inc., 1980. Pp. 340.
- Ladies in Waiting: Behind Prison Walls.* By Kenneth M. Dimick. Muncie, Ind.: Accelerated Development, Inc., 1979. Pp. 182.
- Law Enforcement in a Democratic Society: An Introduction.* By Erik Beckman. Chicago: Nelson-Hall Publishers, 1980. Pp. 341. \$19.95.
- Lives People Live: A Textbook of Transactional Analysis.* By Mavis Klein. Somerset, N.J.: John Wiley and Sons, Inc., 1980. Pp. 183. \$32.50.
- Nonviolent Action and Social Change.* Edited by Severyn T. Bruyn and Paula M. Rayman. New York: John Wiley and Sons, Inc., 1979. Pp. 316. \$18.75.
- Offender Assessment: A Casebook in Corrections.* By Robert B. Mills. Cincinnati: Anderson Publishing Co., 1980. Pp. 199. \$12.95.
- The Penalty of Death.* By Thorsten Sellin. Beverly Hills, Calif.: Sage Publications, Inc., 1980. Pp. 190. \$8.95 (paper).
- Perspectives on Social Group Work Practice: A Book of Readings.* Edited by Albert S. Alissi. New York: The Free Press, 1980. Pp. 405. \$7.95 (paper).
- Perspectives on Victimology.* Edited by William H. Parsonage. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 160. \$5.95 (paper).
- Police Behavior: A Sociological Perspective.* Edited by Richard J. Lundman. New York: Oxford University Press, 1980. Pp. 332. \$5.95.
- Police Work: Strategies and Outcomes in Law Enforcement.* Edited by David M. Petersen. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 128. \$5.95 (paper).
- The Price of Punishment: Public Spending for Corrections in New York.* By Douglas McDonald. Boulder, Colo.: Westview Press, 1980. Pp. 160. \$16.50.
- Probation, Parole, and Community Field Services: Policy, Structure, and Process.* By Frederick A. Hussey and David E. Duffee. New York: Harper and Row Publishers, 1980. Pp. 350.
- Structure, Law, and Power: Essays in the Sociology of Law.* Edited by Paul J. Brantingham and Jack M. Kress. Beverly Hills, Calif.: Sage Publications, Inc., 1979. Pp. 160. \$5.95.
- The Study of Criminal Courts: Political Perspectives.* By Peter F. Nardulli. Cambridge, Mass.: Ballinger Publishing Co., 1979. Pp. 285. \$22.50.
- Taking the Fifth.* By Mark Berger. Lexington, Mass.: Lexington Books, 1980. Pp. 286. \$23.95.
- Theoretical Criminology.* By George B. Vold. Second Edition. Prepared by Thomas J. Bernard. Fair Lawn, N.J.: Oxford University Press, Inc., 1979. Pp. 433. \$14.95.
- Understanding and Changing Criminal Behavior.* By Michael J. Lillyquist. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980. Pp. 436. \$16.95.
- Violent Criminal Acts and Actors: A Symbolic Interactionist Study.* By Lonnie H. Athens. Boston: Routledge and Kegan Paul, Ltd., 1980. Pp. 104. \$11.50.
- Women, Crime, and Justice.* Edited by Susan K. Datesman and Frank R. Scarpitti. New York: Oxford University Press, 1980. Pp. 376. \$5.95.

It Has Come to Our Attention

ERRATA: The "Reference Notes," "Definitions," "General Notes," and "Other Offenses" sections on pages 46 to 48 of the March 1980 issue of *FEDERAL PROBATION* refer to Appendix II, pages 50 to 52.

William A. Cohan has been appointed chief of the Probation Division, Administrative Office of the United States Courts, replacing **Wayne P. Jackson** who retired in February. A graduate of Ohio State University, Cohan came to Washington in 1963 as assistant chief in the Probation Division. Prior to that he had served 8 years as a U.S. probation officer for the Northern District of Ohio. **Donald L. Chamlee**, assistant chief of probation and editor of *FEDERAL PROBATION*, has been named deputy chief of the Probation Division. He holds bachelor's and master's degrees from the University of California at Berkeley and came to the Probation Division in 1968 after 7 years' service as U.S. probation officer in Sacramento, California.

The 1979 Doyle Award of the Federal Probation Officers Association was presented last December to **Richard J. Westman**, U.S. Probation Officer for the Western District of Washington at Tacoma. Presented annually to the

person who has demonstrated effective leadership in furthering the professional standards of the Federal Probation System, the award was given to Westman for distinguishing himself through innovative design and implementation in the area of alternative sentencing programs.

Stephen J. Fesh, Jr., who is currently assigned duties in a State-funded Intensive Supervision Program for high-risk offenders in the Chemung County (N.Y.) Probation Department, has been elected as the seventh president of the New York State Probation Officers Association. He is a former regional vice president and legislative co-chairman of the organization, which represents the professional interests of 2,000 probation officers in New York State.

The number of inmates held by Federal and State corrections agencies now exceeds 300,000—the highest in history, according to a report by the Law Enforcement Assistance Administration. The total hit 307,384 in 1978 which represents a 3 percent increase over the previous year. The number of inmates in State institutions was up

4 percent; while the number of inmates under Federal jurisdiction, which totaled 29,803, was down 7 percent from the previous year.

The Criminal Justice Center at Sam Houston State University, Huntsville, Texas, offers several graduate assistantships. Doctoral assistantships pay \$6,000 a year for 12 months, renewable for another year. Master's stipends pay \$3,800 for 9 months during the first year and \$4,200 for the second year. For further information and application forms, write: Program Coordinator, Doctoral Studies, Criminal Justice Center, Sam Houston State University, Huntsville, Texas 77341; or telephone (713) 295-6211, Ext. 1656.

"Crime and Justice," the first in a series of annual reviews of criminal justice research, is available from the University of Chicago Press, the Law Enforcement Assistance Administration has announced. The book contains essays on youth violence, police and causes of crime. The authors are prominent criminal justice scholars and professionals. The program is financed by the National Institute of Law Enforcement and Criminal Justice, LEAA's research center. The overall cost is \$83,000. The first volume was edited by Norval Morris, who is Julius Kreeger Professor of Law and Criminology at the University of Chicago Law School, and Michael Tonry, associate professor of law at the University of Maryland Law School. Copies may be ordered from the University of Chicago Press, 11030 S. Langley Ave., Chicago, Ill., 60628. Price is \$14. Specify order number: ISBN: 0-226-53955-5. Information on subsequent volumes is available from the University's Marketing Department, same address.

The University of North Carolina at Charlotte has invited applications for positions to be available Fall 1980 in the Department of Criminal Justice. The position requires an "ABD" in a Ph.D. program or a Ph.D. in Criminology, Criminal Justice, or a related discipline. Individuals holding doctorates in other disciplines should show evidence of commitment to Criminal Justice. Appointment will be at the rank of instructor, lecturer, or assistant professor as determined by applicant's qualifications. Inquiries and applications should be addressed to Reed Adams, Ph.D., Chairperson, Department of Criminal Justice, The University of North Carolina at Charlotte, UNCC Station, Charlotte, N.C. 28223. Telephone: (704) 597-2561.

Frank W. Wood has been named warden of Minnesota's newest correctional facility currently under construction in Oak Park Heights. Wood, warden at the Minnesota Correctional Facility-Stillwater, will be responsible for the operation of the new 400-bed maximum security institution which is to be opened in the fall of 1981.

Death Row is a 59-minute 16mm color documentary film about daily life on Death Row in Texas. It may be purchased for \$550 or rented for \$55 (plus postage) and is available from Documentary Research, Inc., 96 Rumsey Road, Buffalo, N.Y. 14209.

Community Justice, Inc., announces the publication of a new bimonthly journal, *Criminal Justice Management*. The journal is devoted to encouraging a better understanding of management principles as they relate to administration of justice. It is designed to meet the specific needs of supervisors, administrators, executives and others responsible for the management of local, state and national justice agencies. For more information, contact: Mark Maynard, Editor, *Criminal Justice Management*, Box 566 J. S., Springfield, Mo. 65802.

Dr. Robert W. Roberts has been appointed dean of the University of Southern California's School of Social Work. He becomes the fourth dean of the oldest social work school in the West and succeeds Maurice B. Hamovitch who will step down in June 1980 and return to teaching.

The Minnesota Community Corrections Association, a private, nonprofit organization representing over 300 community corrections programs and members throughout the State of Minnesota, has appointed as its new executive director Betsy Buckley, former deputy commissioner for the Minnesota Department of Corrections. She replaces Thomas F. Christian, Ph.D., who resigned to accept a position with the National Center for the State Courts in Atlanta.

Abnormal Behavior: A Guide to Information Sources, (261 pp./\$26.00), published by Gale Research Co., Book Tower, Detroit, Michigan 48226, provides a comprehensive subject classified listing of books and journal articles published during the past 10 years. Among the disciplines covered are the biological, social, and behavioral sciences as well as such professions as medicine, psychology, education, and social work.

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American University; M.A. (1972), California State University, Sacramento. Executive Officer, California Board of Corrections, 1960-1967; Assistant to the Secretary, California Health and Welfare Agency, 1967-1971.

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REED ADAMS: Associate Professor of Criminal Justice (since 1977) and Chairman, Department of Criminal Justice (since 1978), University of North Carolina at Charlotte. B.A. (1961), University of North Carolina;

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A WORD ABOUT OUR PRINTERS

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Issues in VIP Management: A National Synthesis

~~Chris DeVestridge~~
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Thorsten Sellin

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Gladine SchWeber

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People Make the Difference

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W. Walter Menninger

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SEPTEMBER 1980

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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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NUMBER 3

This Issue in Brief

Guideposts for Community Work in Police-Social Work Diversion.—Significant steps in community work involved in the development of police-social work diversion programs are described and analyzed by Professor Harvey Treger of the University of Illinois. Techniques and methods of work are suggested for practitioners interested in the planning, implementation, and operation of community-based programs. The effects of change on a system(s) are discussed emphasizing sensitivity to interpersonal, inter-professional, and interagency relationships, as well as client needs and issues of power and control.

Issues in VIP Management: A National Synthesis.—This article by Dr. Chris W. Eskridge of the University of Nebraska deals with a number of critical issues involving the management and organization of Volunteer-in-Probation (VIP) programs. While it is difficult to specifically identify why some projects fail and others succeed, it appears that management variables may well be the most powerful factors. This research effort was undertaken to provide an assessment of where we are now in regards to VIP program organization and management, and to identify areas of concern which suggest the need for future research.

An Analysis of Contemporary Indian Justice and Correctional Treatment.—Dr. Laurence French of the University of Nebraska states there is little doubt that the U.S. criminal justice system has a narrow, ethno-centric biased perspective that tends to view American Indians as "outsiders" to the dominant normative structure. He then proceeds to describe significant changes which have been effected with regard to treatment of the Indian offender—changes brought about

principally by efforts of the Native American Rights Fund.

New Amsterdam's Jail Regulations of 1657.—After the Dutch West India Company established a trading post at the tip of Manhattan in 1626, reports Professor Thorsten Sellin, the community of New Amsterdam grew as its population increased and within three decades the Company was compelled to grant the settlers substantial rights of self-government. Among the institutions developed was a jail and, in 1657, fairly detailed regulations were adopted for its management. It comes as no surprise that the regulations were practically copies from those of the old jail in Amsterdam.

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Security Designation System: Preliminary Results.—An article by Levinson and Williams in the March 1979 issue of *FEDERAL PROBATION* describes a new inmate designation/classification system which was being developed by the Federal Prison System. Preliminary data gathered from several pilot projects led to the system-wide adoption of this new approach on April 15, 1979. Dr. Levinson reports that the new approach demonstrated success in five of six assessment areas; namely, it produced: less secure, appropriate confinement; better balance; fewer transfers; elimination of "preferential transfers"; and better use of resources. It failed, thus far, to reduce the number of inmates in protective custody.

Pioneers in Prison.—The Federal Industrial Institution for Women was created by Federal statute in 1924 and began operations at the

Alderson, W.Va., location in 1927 under the leadership of Dr. Mary Belle Harris. Alderson remained the sole Federal prison for women until 1955. It was widely admired as a "ladies' seminary" that worked. This article by Dr. Claudine SchWeber looks at how well the realities of inmates' lives matched the reformers' perceptions and plans.

The Federal Bureau of Prisons Celebrates Its 50th Anniversary.—Four articles which were prepared for the 50th Anniversary Celebration in May of the Federal Bureau of Prisons are reprinted in this issue. The manuscripts by H.G. Moeller, Dr. Sherman R. Day, Dr. W. Walter Menninger, and Richard McGee look at the past and attempt to outline what lies ahead for corrections in the years to come.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.

Guideposts for Community Work in Police-Social Work Diversion

BY HARVEY TREGER

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WHEN the Jane Addams College of Social Work, University of Illinois at Chicago Circle, placed social workers and graduate students in community police departments it was as if a pebble were thrown into the water. A widening ripple effect was created. The consequences of this innovation provided new relationships and opportunities for public service; new knowledge was developed and a workable model for systems change was discovered.

"The Police-Social Work Team" Model is an example of fitting university resources and innovation with community needs and problems in a mutually acceptable arrangement for public service. For the profession of social work "The Police-Social Work Team" extended the tradition of cooperation and facilitation to new professions and disciplines and offered services to previously unserved populations.

The experience in innovating and directing this pioneer effort in police-social work beginning in March 1970 through 1977 provided the basis for developing some generalizations and guideposts in community work which may be useful to others contemplating similar efforts in community-based corrections.¹

The process of entry into a community, developing working relationships and becoming a partner in social welfare program development is something of a mystery to many professionals in the field of human services. The literature is lacking in such reports so that a description of the process can begin to fill a knowledge gap in this area. Beyond this it may provide some practice skills capable of routinization, evaluation, and further elaboration.

Structures such as the police, the criminal justice system, and the political arrangements in a community are essentially based on levels of authority. An understanding of the nature of

authority and its interrelationships in a specific community system is necessary if ideas are to be translated into programs. The first step is always very important as it can influence and affect subsequent actions. An association of mental health agency directors recognized this when they asked, "How did you get into the police department?" Entry into the police department like any system is not simple. To the uninitiated, it may appear that way, particularly if one enters the system from another discipline.

The first task of a program developer is to talk with the agency head—in this instance it was the chief of police. In one community an attempt was made to develop a police-social work diversion program by beginning with the juvenile officer. The program got started but failed to receive ongoing support. The juvenile officer did not have the authority to establish an ongoing program in a police agency without the approval of his chief and the sanction and support of senior officers in the department.

Guidepost No. 1. If you want to start a program in a community agency, you must first talk with the head of the agency in which your program will be lodged and "sell" him on your idea.

If someone the chief knows and trusts introduces you to the chief it may be helpful at least in "getting the ear" of the chief. Once the chief is interested in your ideas and believes they are congruent with his philosophy of police work or human services and would be useful to the department and community, he may plan for you to meet with supervisory staff to explain the program and how it would work. In this way senior ranking officers are involved to elicit their own reactions and how they think the staff would receive such a program.

If after meeting with the chief and supervisory staff it is still "go," the chief will start you through the political system to gain the necessary support, sanction, and appropriation. It is im-

¹ The writer designed and directed three pilot programs in Chicago area suburban communities and served as consultant to several others including the recently developed "Preventive Police-Social Work Project" in Hanover, Federal Republic of Germany.

portant for the social program developer to be alert and monitor this experience with the system as it progresses. You will want to observe relationships, identify the center(s) of power and control, note the official concerns and personal characteristics and interests of people you may be working with. You will also want to see how decisions are made and observe the customary ways of doing business in this community. You may wish to use this information about "how this system works" at a later date to achieve your program objectives. Once you learn how to "operate" in more than one system, it is easier to learn a third and a fourth, etc. As a result, you will likely develop deeper insights into your own organizational interrelationships as well as have greater facility and confidence in working cooperatively with a variety of systems.

Guidepost No. 2. Follow the guidance of the agency head. They usually know their community and political system as well as the process of introducing new people and programs into existing structures.

The chief of police can identify key community influentials—and groups—whose support will be useful in the planning and development or later operational phase. Preliminary meetings may occur with the city manager and the mayor and sometimes later with several key members of the city council before a meeting with the board. It is important to prepare yourself for each meeting just as a direct practice person would with an individual or family. Ask yourself, "Why are you getting together? What are your goals? What do you hope to accomplish? What is your strategy? What information will be required to 'sell' the idea? What kind of format will be most effective to influence your audience? Is there any preparation in the way of information, etc., that would be useful for the group to know prior to the meeting?" In one instance a village president had not prepared the council for the program developer's presentation. The outcome was literally a disaster. It was later learned that the village president was himself ambivalent toward the suggested program. He had some commitment and loyalty to an already existing program which a few board members felt wasn't working as well as expected. Some prior preparation with the village board could have insured a better reception to the new idea or else they might have decided not to entertain a proposal for a new

program thereby making the meeting with the program developer unnecessary.

Village officials usually have at least several concerns. They will want to know:

- (1) What is the program? How will it work?
- (2) Has it been tried anywhere else and with what results?
- (3) Why did you come to this community?
- (4) What will the program cost?
- (5) Does our community need this program?
- (6) Does the program developer have ample time and competence to direct the program, e.g., is he or she a person who has the personal attributes to work cooperatively with the political system and diverse groups in the community?
- (7) What are the projected political consequences of introducing this new program, i.e., how will it affect interprofessional relationships, other city departments as well as impact on the target population?

It may be useful to offer an illustration that will demonstrate how the program might work with a specific problem. Take your audience through the system so they can get a feeling for the program. Allow lots of time for questions. You will be more likely to obtain interest and even commitment when people are involved, contribute ideas and suggestions and clarify areas of uncertainty.

Questions No. 6 and No. 7 will be answered by the city officials and department heads as they assess the program and the program developer. They will be keenly interested in knowing what kind of a person you are, i.e., are you thoughtful or impulsive? Are you evenhanded or arbitrary? Do you have fixed, rigid ideas or are you flexible and openminded? They will want to know how you make decisions. Are you authoritarian or do you involve others in matters of mutual concern? How do you work with your peers and those in authority? How do you handle your own authority? Are you a team player? Will you consult on policy issues with governmental officials?

The process here is akin to being interviewed for a job. Of course, this is a two-way street and you will be making your own assessments too: You will be evaluating such issues as:

- (1) Can the key political leaders obtain the needed sanction and support to launch and maintain the program?
- (2) How much involvement and commitment can be mobilized? When assistance is needed in

obtaining supplementary outside funding, how much will the political leaders help?

(3) How stable are the political arrangements in terms of the life of the project?

This brings us to *Guidepost No. 3*: Involvement and commitment is an essential ingredient for effecting beginning and continuing support by community officials.

An illustration of this principle can be seen in the recent development of a police-social work program in Hanover, West Germany. The program was initially sponsored by the Minister of Justice for Lower Saxony, Professor Hans-Dieter Schwind, with partial funding from the German Marshall Fund. Since the program was in the City of Hanover, sanction and support by the Lord Mayor, Herbert Schmalstieg was necessary. The achievement of this objective was an important step. The situation was particularly sensitive as the Minister of Justice and the Lord Mayor were of opposing political parties. A two-phase plan was designed:

(1) A meeting with the Lord Mayor, the Minister of Justice, program director, and consultant to discuss the Lord Mayor's concerns regarding the program and to encourage his involvement.

(2) To plan a visit for the Lord Mayor to the United States for a "firsthand" view of a police-social work program.

At the meeting the Lord Mayor expressed three concerns about a police-social work program in Hanover:

(1) The political concern, i.e., the potential for role conflict and cooptation between police and social workers.

(2) The impact of social work on community problems, e.g., are social workers theoretical or are they pragmatic, too?

(3) The problems of minorities (Afghanis-tans, Greeks, Yugoslavians, Italians, etc.) and the ability of the program to relate to the problems of these people, e.g., housing, medical care, parent-child culture conflict problems, problems of alienation, etc.

The Lord Mayor's concerns were similar in many respects to the experience with governmental officials in the United States when the program first began in their community. The background of the American social worker who would work in the Hanover program for the first year included experience as a police-social worker and work with minorities and displaced persons.

The Lord Mayor subsequently visited the United States and was exposed to a number of programs. He talked with governmental officials and practitioners to learn about problems and issues as well as to get a feeling of confidence in the capability of police-social work diversion.

Later the Lord Mayor reported he was well pleased with his visit and that he had learned a great deal. Correspondence from Hanover indicates the Lord Mayor is now feeling involved and is committed to the program. He has offered to assist the project in obtaining cooperation from some referral agencies that are reluctant to work with the police-social work program.

After most of the initial planning phase is completed, the program developer must himself begin to get more involved in the community.

Guidepost No. 4. The goals and objectives of the program and their priorities should serve as a guide to the nature and degree of community involvement at various points in time.

The kinds of information and relationships needed in beginning program development require careful thought and planning. The collection of information and the development of supportive and service relationships often go hand in hand. A useful reference point for getting to know a community is your own experience in relocating from one community to another. Most everyone can relate to this as they have moved at some time in their life. Ask yourself what kinds of information did you want to know before and after the move, and what additional would have been useful to know? Transportation, schools, churches, banks, shopping, safety, reputation of police, fire departments, city services, and the quality of life are a few of the things most people are interested in. What resources are available for obtaining this information? A few information resources are the Chamber of Commerce, City Hall, the library, the International City Managers Association publication, "The Municipal Year Book," community influentials, directors of agencies and institutions, especially those with whom you will work.

The police are a natural resource, a storehouse of community data which has been little appreciated and used in social planning. The police chief can identify community influentials whose support may be needed for program development. He knows how people relate to each other and how they behave organizationally and therefore can be a key leader in community development.

In the areas of delinquency prevention and crime control, the police are especially knowledgeable about the financial and political aspects of the community, history of community problems, available resources, gaps in services, and general information about the ambiance of life in the community.

Guidepost No. 5. In order to successfully develop a program, the social program developer must have workable relationships and become a partner in community development. They must become invested in the life and concerns of the community, i.e., attend community meetings, social affairs, serve on agency boards, and be available for advice to city officials in their area of expertise. This kind of progressive and ongoing investment is the substance of successful program development. When you invest in the life of a community, your relationship with the community will deepen. Experience indicates that a new person or program in a community is like a "new kid on the block." Agency executives will want to know: Who is he, why is he there, what does he hope to accomplish and how long does he plan to stay? Furthermore, they want to know what their relationship will be, i.e., what can he do for them and what effect will his actions have on their program? Will they work cooperatively and in what area? Will they compete for funds and/or clients? Will this new program be threatening to the existence of established agencies? Will agency functioning change?

Experience in developing police-social work programs demonstrated that two things emerged from community contacts early on:

(1) That some people had ambivalent feelings about the presence of the project in their community. These feelings were typical of the feelings of some police officers, social workers, university colleagues, and people from the funding agency. From the communities' point of view, they were reacting to a stranger in their midst, an outsider from the big state university, of whom one community influential said, "you don't even know the names of the streets." Others expressed a fear the program would permit criminals to roam the streets.

(2) That early contacts later proved worthwhile, when requests were made for client services.

"The ability of the program developer to deal

with community reactions to a new situation is observed and evaluated and helps the social program developer to establish an identity as well as his competence."² This dynamic interaction is part of a continuum of change. Community and agency relationships will develop as the program becomes operational and service requests are initiated. The consequences of being interdependent with many agencies and systems is that you tend to broaden the base of understanding and support for your program while building linkages for service delivery; you also learn about additional resources and gaps in services. Furthermore, the broader the resource base the more impact and choices a system has. Community problems and situations are frequently complex and interlocking. They require inputs from many professionals and systems working cooperatively as a team to maximize its impact on the problem. In this way each profession may add to its knowledge and expand its services to new populations. As a result, better coordinated and more comprehensive services could be offered. Interprofessional-intersystem efforts however are not without risks as differing orientations and values can be conflictual and there may be sensitive borderline areas where flexibility and mediation are required.

Guidepost No. 6. Programs of social provision should be designed to fit the needs of the people being served.

The experience of developing programs in a variety of communities with different populations including working class, middle class, upper middle, and minority groups has created a sensitivity to the uniqueness of the life styles of each community. It's not like setting up a franchise hamburger or fried chicken establishment. If it is, chances are you will not be in business too long. It takes time to get on board with a community, just as it does with a client. The collection of significant information about the community being served is cumulative and requires assessment for it to become a useful input in planning and program development. An example is Maywood, Illinois. Maywood has very large working class and minority group populations. Approximately 30 percent of the police-social work program clients were either receiving some form of public aid or had income which was just above the public assistance level. To establish an effective program in this community, the staff and students needed to demonstrate their in-

² Harvey Treger, "Wheaton-Niles and Maywood Police-Social Service Projects," *FEDERAL PROBATION*, September 1976, p. 34.

terest and availability to the population referred for services. Minority group populations tend to be distrustful of government and authorities and are reluctant to become involved in government-sponsored programs in traditional settings. To stimulate motivation for social services most people referred to the Maywood Project were seen as soon as possible in their own homes rather than in the police department, unless social assessment indicated otherwise. Unavailability of child care arrangements, lack of transportation and funds were additional reasons for the frequent use of home visits as the setting of choice for offering services in this community. It is believed that if services were not tailored to the life style and needs for this community, the utilization of services would have been markedly diminished. Furthermore, interpretation to referral agencies of acceptable service patterns and followup with the agencies and clients was necessary to insure a high level of referral acceptance.

An open house in the beginning phase of the program was helpful in broadening our acquaintance with the community and for bringing diverse groups, e.g., agency directors, funders, university officials, police and social workers together in an informal evening where new relationships and followup opportunities could develop. Representatives of a Black Muslim group attended the Maywood open house and wrote a letter supporting the program which was used as evidence of community support when second year funding was sought.

Guidepost No. 7. The development of a new program in a community can be understood from a systems perspective.

The police-social service program is actually a system within systems.³ When working with a range of professionals in different systems, it becomes necessary to be sensitive to the impact of decisionmaking upon the interrelationship of their respective systems, e.g., the police-social service program was in the law enforcement system part of the justice system; working within the university system, and within the systems of professional social work and social welfare. A decision in one program could affect the interrelationships of the program with other parts of the system(s).

³ See a system within systems diagram on this page. Harvey Treger, et al., "Process in Development of the Project," *The Police-Social Work Team*. Springfield, Illinois: Charles C. Thomas, Publisher, 1975, p. 62.

⁴ Alex Indles, *What is Sociology?*, "Models of Society in Sociological Analysis." Englewood Cliffs, New Jersey: Prentice Hall, 1964, p. 36.

THE SOCIAL SERVICE PROJECT-A SYSTEM



WITHIN SYSTEMS

Inkles has stated, "Changes in one part of society have important implications for other parts of the system (thereby) enabling us better to understand why so often innovations are so slowly adopted."⁴ If system reactions to contemplated policy decisions are not thought through and planned for, unexpected and undesired reactions and impediments to a program could occur. When the police-social work program became operational in Hanover, West Germany (August 1979), the professional social work association reacted strongly to the idea of social work and police cooperation. They feared the police would coopt the social workers and decided to boycott the program. Information revealed that the agencies in the community had not been involved in the planning and did not fully understand the nature of the program and what the social workers would be doing. They were feeling left out, and like an orphan, they were expressing their fears and anger. It was apparent that a step in the process of community involvement was left out and now needed to be made up. An unexpected consequence was that it brought the social workers closer to the police who could identify with them as a beleaguered group under external threat.

Another example of system interaction occurred when an irate judge stormed down to a community police department to lecture juvenile officers that he didn't want youths who should properly be before him referred by police officers to the project. Some prosecutors are also concerned that police officers and social workers may invade their area of discretion. It has been stated that "if substantial numbers of offenders are diverted by local law enforcement to community based agencies (or to units such as a police-social work program) there will be in all likelihood reduced inputs to prosecution, adjudication, and correctional agencies. Lessened inputs will alleviate some of the backlog in the judicial system and reduce caseload pressure in probation and parole and size on institutional population. While these occurrences are desirable, at some point in time the bureaucratic instinct for survival may be threatened. Reactions protective of the establishment may set in."⁵ Although new programs to resolve community problems are desired by community leaders, they are also resisted because invariably they challenge established norms and relationships creating conflict and disequilibrium in a system. It is this effect that innovation has on a system that must be anticipated and coped

with if a new program is to be sanctioned and supported. Any new group or program must either become integrated into the fabric of the system, assimilated, or expelled. The development of interprofessional and inter systems cooperation requires mutual involvement in planning and program development which relates to the concerns and sensitivities of the various professions and systems involved as well as client groups in a dynamic and ongoing manner.

Getting into a community and knowing what to do when you get there is something akin to learning to drive a stick shift car. You begin with shifting the *first gear*—getting into the agency and political community; *second gear*—becoming acquainted with the community, its influentials, agencies, institutions, and systems, and then shifting into *third gear* with ongoing communication, information dissemination and input into the wider area of social welfare program development. You put it all together in a continuous manner with fine tuning as new information develops and situations change over time. This dynamic process can help to achieve the goal of a true partnership with reciprocal benefits to the program, the cooperating professions, the political structure, the funding and sponsoring agencies, and the client.

⁵ Robert M. Carter, "The Diversion of Offenders," *FEDERAL PROBATION*, Vol. XXXVI, No. 4 (1972), p. 35.

Issues in VIP Management: A National Synthesis*

BY CHRIS W. ESKRIDGE, PH.D.

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PROBATION in the United States began with volunteers. Now, after many years of avoidance, our system seems to have embraced them once again. From the early 1900's until 1960 one would have been hard pressed to find a volunteer-in-probation (VIP) type program op-

erating anywhere in the United States. In 1960, Judge Keith Leenhouts of the Royal Oak, Michigan, Municipal Court resurrected the concept, and the idea has grown rapidly since. Recent estimates report that some 300,000 volunteers now serve 2,000 jurisdictions while contributing over 20,000,000 hours of service per year.¹ Others place the figure at 500,000 volunteers serving 3,000 jurisdictions.² While the exact data are

* This research effort was supported, in part, by grant No. 77N1-99-0001 from the National Institute of Law Enforcement and Criminal Justice of the Law Enforcement Assistance Administration, U.S. Department of Justice, Harry E. Allen, principal investigator, Eric W. Carlson, project director. Such support does not necessarily indicate concurrence with the contents of this article.

¹ Joseph Ellenbogen and Beverly DiGregorio, "Volunteers in Probation: Exploring New Dimensions," *Judicature* (January 1975), p. 281.

² National Council on Crime and Delinquency, *Volunteers in Probation* (Royal Oak, Michigan: National Council on Crime and Delinquency, 1977).

not available, the evidence does indicate that the past 15 or more years have seen a marked revitalization of the volunteer concept.

Volunteer projects operate on the premise that certain types of probationers can be helped effectively by the services a volunteer can offer, and that such services can be provided at a minimal direct tax dollar cost. In general, the principal function of the volunteer is to supplement, not replace, probation officer efforts by providing individual specialized services to probationers.³

At the outset, it should be noted that volunteer projects seem to present an amalgamation of advantage and disadvantage to the community. A previous research effort undertaken by the author found that volunteer projects in general seem to be able to offer an increased quality in probation services at a reduced cost.⁴ Scioli and Cook came to a similar conclusion in their review of 250 volunteer projects.⁵ While it is difficult to specifically identify why some projects fail and others succeed, it appears that management variables may well be the most powerful factors. This research effort was undertaken to provide an assessment of where we are now in regards to volunteer project organization and management, and to identify areas of concern which suggest the need for future research.

Scope of Services

What can the community expect to derive from a volunteer-in-probation type project? Its proponents consider it to be one of the more promising innovations in the field, claiming that it can help alleviate the problem of excessive caseloads and contribute to rehabilitation and reintegration goals for the probationer. Volunteers' activities have been broken down into three areas of structural impacts: (1) Volunteer projects offer an amplification of probation services, (2) volunteer projects offer a diversification of probation services, and (3) volunteer projects offer additional support services.⁶

Amplification of Services

Scheier has suggested that one consider the probation officer who has 1 hour per month to spend with each client. The officer can either spend it directly with the probationer, where 1 hour of input leads to 1 hour of output, or supervise a volunteer who will spend 10 to 15 hours with the probationer, where 1 hour of input leads to 10 to 15 hours of output. A combination of the two systems seems to be the most logical, where the probation officer spends part of the time supervising the volunteer and part of the time in direct contact with the probationers. But these calculations do indicate an amplification factor, where for each hour of probation time invested, 10 to 15 hours of volunteer services are contributed to the probation system.⁷

Diversification of Services

By drawing upon the time, talents, and abilities of volunteers to assist in probation services, the probation officer can serve to broaden the nature of the services offered. Scheier, director of the National Center of Volunteers in Courts, has reported that some 155 volunteer roles have actually been filled by volunteers in one court or another. The community then contains a diverse supply of skills and can serve as a manpower resource.

Additional Support Services

In addition to the direct probation services offered, volunteers often assist the volunteer project in an administrative capacity. For example, the well-known Royal Oak, Michigan, program has been supervised by a full-time volunteer for quite some time.⁸ The VISTO program in Los Angeles County (California) utilized volunteers to fill some of its clerical needs, such as handling supplies, Xeroxing, answering recruitment correspondence, and routine office contacts, as well as participating in project research projects.⁹ There can be little doubt that volunteers in a probation framework can serve as a means of amplifying time, attention, and type of services given to the probationer by the system.

Project Personnel Roles

The role of the chief administrator, who is often a volunteer, is relatively constant from program to program. The chief administrator is responsible for implementing policy, fiscal management, coordination of volunteer program activities with the court and the probation de-

³ Richard P. Seiter, Sue A. Howard, and Harry E. Allen, *Effectiveness of Volunteers in Court: An Evaluation of the Franklin County Volunteer in Probation Program*. (Columbus, Ohio: Ohio State University, Program for the Study of Crime and Delinquency, 1974), p. 2.

⁴ Chris W. Eskridge, "The Use of Volunteers in Probation: A National Synthesis," *Offender Rehabilitation*, Vol. 4, No. 2 (1980).

⁵ Frank P. Scioli and Thomas J. Cook, "How Effective Are Volunteers?" *Crime and Delinquency* (April 1976), pp. 192-200.

⁶ Ivan H. Scheier, "The Professional and the Volunteer in Probation: An Emerging Relationship," *FEDERAL PROBATION*, Vol. 34, No. 2 (1970), pp. 8-12.

⁷ Seiter, et al., *ibid.*, p. 15.

⁸ Keith J. Leenhouts, "Royal Oak's Experience With Professionals and Volunteers in Probation," *FEDERAL PROBATION*, Vol. 34, No. 4 (1970), pp. 45-61.

⁹ David P. MacPherson, *VISTO* (Los Angeles, California: Los Angeles County Probation Department, 1975).

partment, and generally overseeing the daily administration of the program. In some programs however, the chief administrator answers the role of fund raiser, program liaison, and public relations director and delegates authority to the administrative assistants.

The role of administrative assistant differs widely from program to program. They may function as de facto chief administrators, or may serve merely as coordinators of operations, or as information dispensers. The latter may be more prevalent due to the fact that administrative assistants are often volunteers with special administrative or public relations skills.

The role of the line level volunteer is a relatively complex issue, and one that will be articulated more carefully in other sections of this article. Suffice it to say at this point, that the volunteer's relationship roles with the probationer can be classified into four categories:

(1) *The 1:1 Model*, where the volunteer, on a one-to-one basis seeks to obtain the trust and confidence of the probationer and helps him to maintain his existence, clarify his role in society, and plan for the future.

(2) *The Supervision Model*, where the volunteer who works as a case aide to a probation officer, provides services to a number of probationers.

(3) *The Professional Model*, where the volunteer, who is a professional or semiprofessional in his field, provides special services to a number of probationers.

(4) *The Administrative Model*, where the volunteer assists with the project administrative functions and interacts only indirectly with the probationers.

Funding

While the very title "volunteer project" may imply that few costs are involved, this is not the case. Although the volunteers themselves receive little or no remuneration for their efforts, nevertheless, recruiting, screening, training, matching, and supervising all involve a cost. To raise necessary funds, volunteer projects utilize four sources: (1) State government, (2) local government, (3) Federal grants, (4) private donations. Most projects seek funds from single sources, however, the trend may be combinations of

sources in order to assure their continued existence.

While 21 projects were reviewed in terms of funding sources, it was difficult to determine if the documents examined revealed the entire source of income. Twelve were apparently funded by the Federal Government, two received local dollars, nine received state dollars, and three obtained private donations. Some 25 percent of the projects examined have sought financial support from combinations of sources, while 75 percent seem to look to one source for their sustenance.

A problem facing all projects is survival. When the grant expires or the private donations dry up, so does the project, unless the project administrators can obtain or renew financial support on the part of the government (be it Federal, state, or local) and the private donors.

Organization

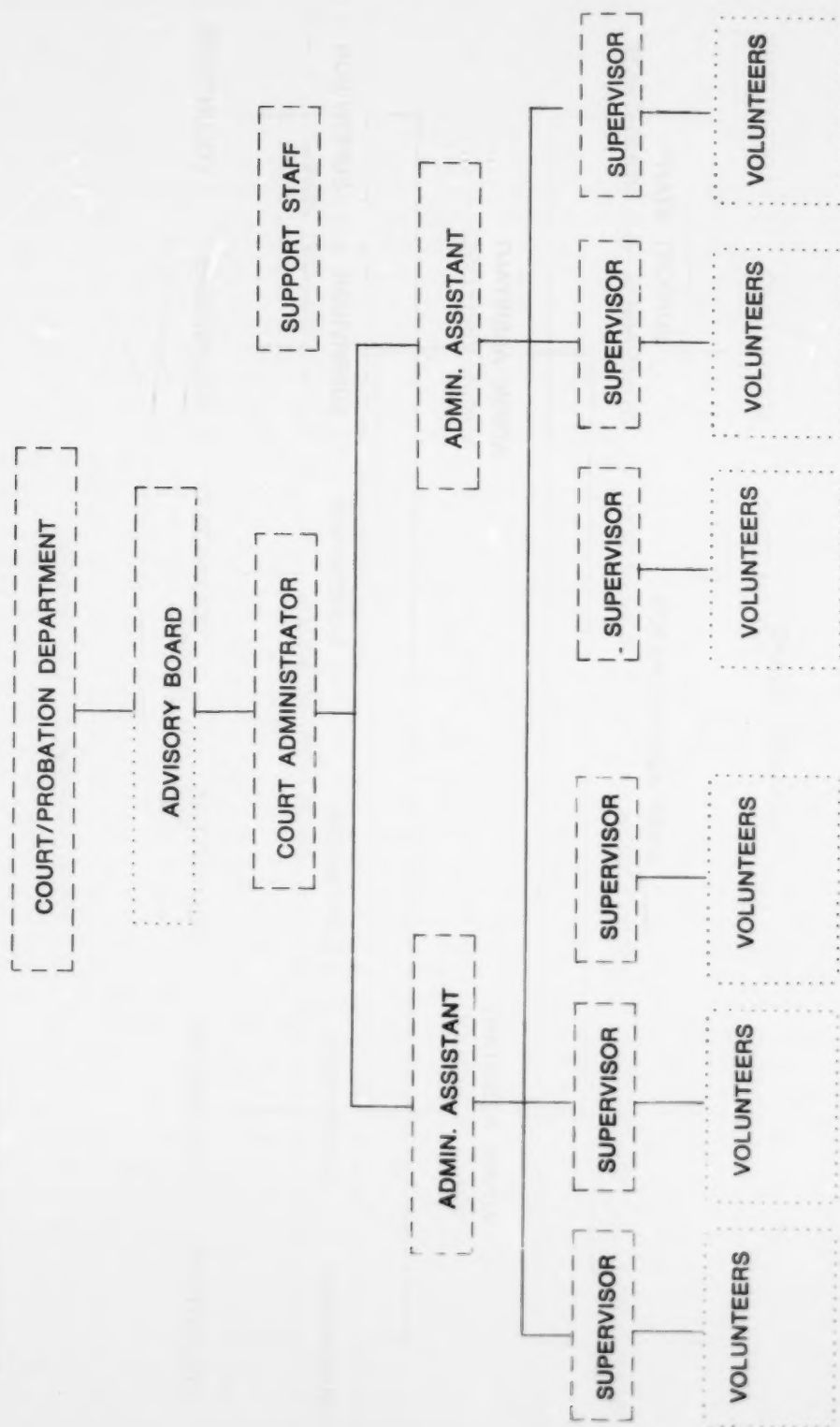
Most, though not all, volunteer projects are administered either through the local court or the probation department, even though they may be administratively staffed entirely with volunteers. The important fact is, however, that ultimate control is usually maintained by either the local court or the probation department. One notable exception to this generality is the State of Florida, where the volunteer project has been organized on a statewide, coordinated basis since 1968.¹⁰ Generally speaking, however, volunteer projects can be categorized into one of three basic formats. The three figures presented on the following pages graphically illustrate these organizational styles. The differences are not so much within the structure of the organization, but rather in who fills the positions within the structure.

Figure 1 illustrates projects which are administered and controlled by a government unit, while figure 3 illustrates a project which has little or no immediate formal administrative ties to a government unit. Figure 2 represents a close relative of the latter cases, with project positions being staffed by both volunteers and professionals, although the project itself has few formal government ties.

Of the volunteer projects reviewed, 19 could be categorized in terms of organizational arrangement, and were distributed into the following classifications:

¹⁰ Charles E. Unkovic and Joan R. Davis, "Volunteers in Probation and Parole," *FEDERAL PROBATION*, Vol. 33 (1969), pp. 41-45.

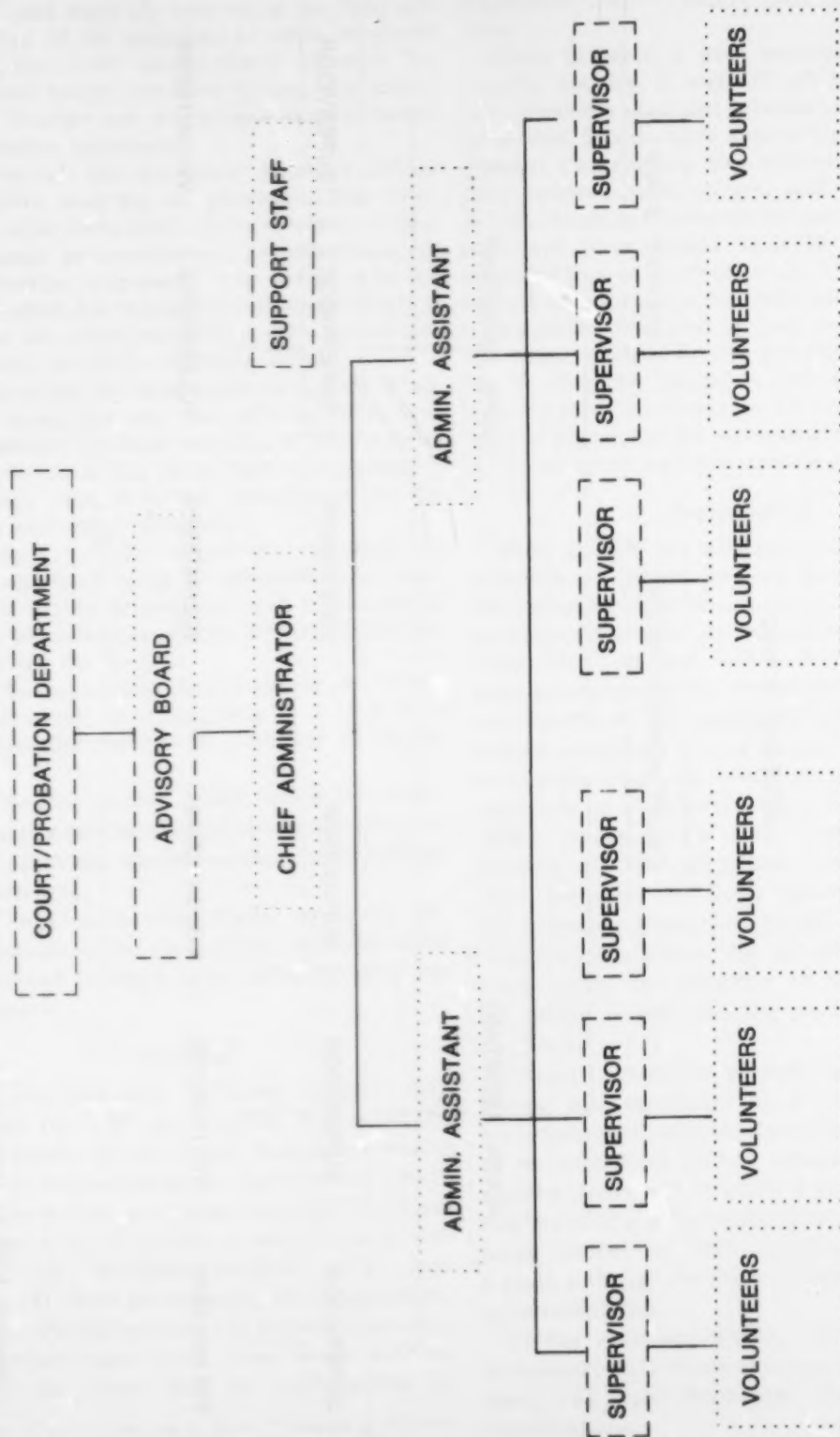
FIGURE 1—Organization of VIP Programs I



.... Position held by Volunteers

— Position held by Professionals

FIGURE 2—Organization of VIP Programs II



..... Position held by Volunteers

--- Position held by Professionals

FIGURE 3—Organization of VIP Programs III

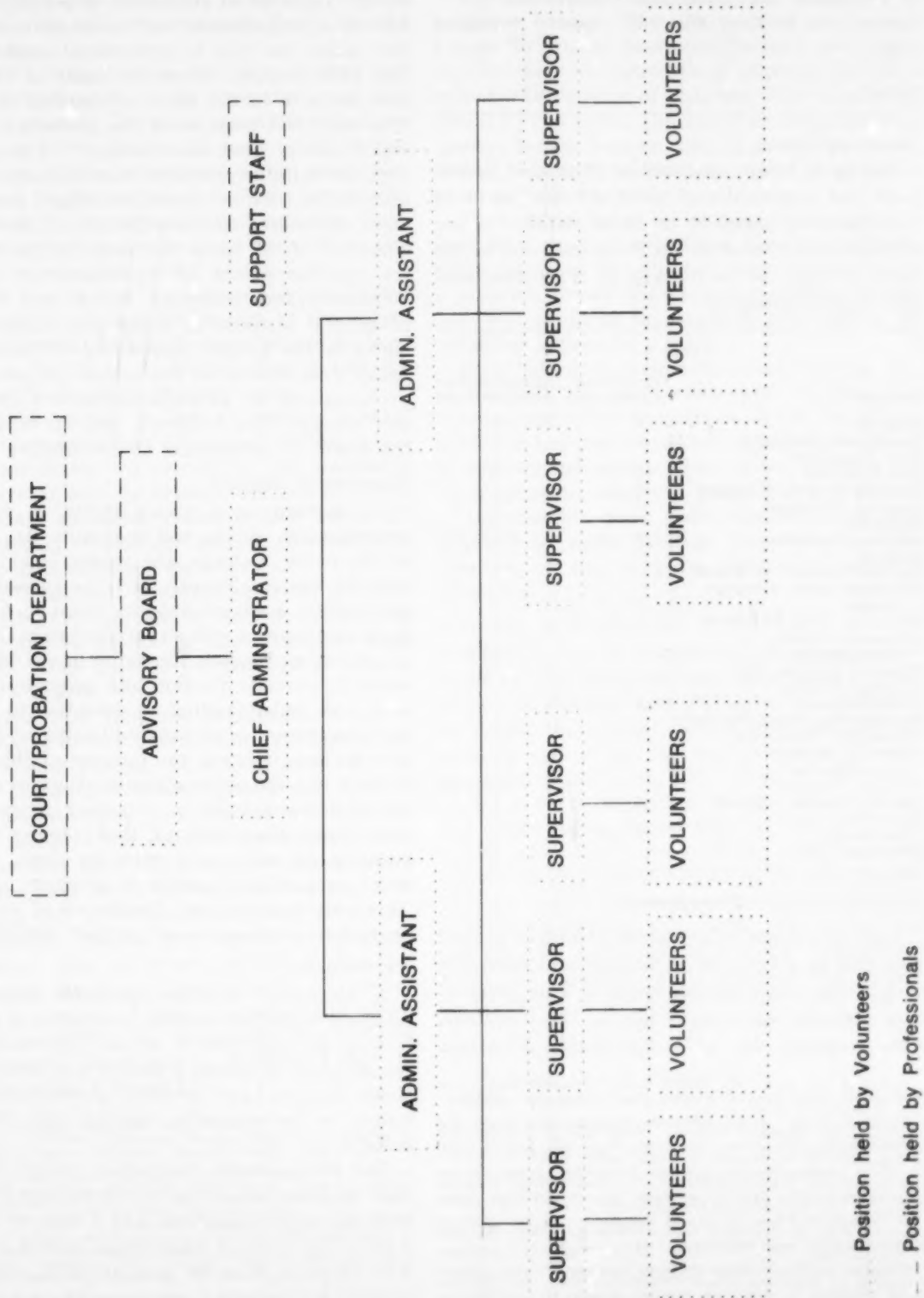


TABLE 1—Organizational Arrangements

Figure	No. of Cases Observed	Relative Frequency
1	14	73.7%
2	2	10.5
3	3	15.8
TOTAL	19	100.0%

Summary Table

The table below summarizes 22 project operations and organizational constructions. Refer to the charts on pages 11 to 13 as the key to the organizational construction categories and to the table on page 10 as the key to the operational combination category.

TABLE 2

Projects	Operational Combinations	Organization Construction
Colorado	1 4	2
Royal Oak, Michigan	1 3 4	3
New Hampshire	1	1
San Francisco	1 2 3	1
Macomb County, Michigan	1 3	1
Lansing, Michigan	1	1
Nebraska	1	1
Lincoln, Nebraska	1 3 4	Unknown
Indiana	3	2
Macomb County, Michigan	1	1
Fairbanks and Anchorage		
Alaska	1 2 4	1
Oklahoma City, Oklahoma	3	1
Lancaster County, Pennsylvania	1	Unknown
Franklin County, Ohio	1	3
Alameda County, California	1 2 3 4	1
Philadelphia, Pennsylvania	3	1
Wilmington, Delaware	1 4	3
Delaware County, Pennsylvania	1	1
Toronto, Canada	1	Unknown
Denver County, Colorado	1 2 3	1
Santa Barbara, California	1 2 3 4	1
Cleveland, Ohio	1	1

Management

Lack of success in any given volunteer project may well be a function of management operation rather than the volunteer concept. This observation surfaced again and again in the literature. For example, the 1975 Southfield, Michigan,

study¹¹ reported an abundance of potential volunteers and probationers, but the actual match rate was quite low due to operational inadequacies. The 1976 Indiana University study of 14 volunteer projects in the State of Indiana concluded "the universal problem of the projects reviewed was a lack of good basic design."¹² The greatest problem being experienced was the lack of communication between probation officers and volunteers and subsequent coordination of efforts. The summary of the Santa Barbara, California, project reported a lack of communication between volunteers and probation officers and the lack of general managerial support as major drawbacks to the project operations.¹³ These drawbacks were viewed in the context of managerial problems and not as disparagement of the volunteer concept. The following sections will review the essential components of an effective project.

Community Support

To operate as a viable entity, a volunteer project must obtain and maintain the support of the public at large, the media, local political officials, the local court, and the probation department.¹⁴ Lack of support from any one of these components will jeopardize the existence of any volunteer project. Engaging in activities that serve to alleviate friction and promote cooperation and understanding is essential to the establishment and continued well-being of a volunteer project. It is not the purpose of this article to delve into the political ramifications of developing and maintaining a volunteer project in a community. Note however, that complex political realities do exist, and must be dealt with in order to facilitate continued program stability. This activity is the very foundation of successful operations and continued project stability.

Recruitment

A successful volunteer program requires an adequate supply of volunteer workers. In general, it may be said that it is not difficult in most communities to attract a pool of qualified applications. Reports have generally shown today's volunteer to be successful, mature, and well educated.¹⁵

The 1976 Lincoln, Nebraska, project reported that the mean age of its volunteers was 27 years, with 60 percent married and about 60 percent male.¹⁶ The average educational level was a little over 14 years. Over 90 percent of the volunteers expressed a religious affiliation. The project also

¹¹ City of Southfield, 46th District Court, *Probation Improvement Program—Subgrant Final Evaluation Report* (Southfield, Michigan: City of Southfield, 1975), p. 18.

¹² Rex D. Hume, et al., *Evaluation of Probation Services and Volunteers in Probation Programs: Final Report* (Bloomington, Indiana: Indiana University, School of Public and Environmental Affairs, Institute for Research in Public Safety, 1976).

¹³ Santa Barbara County Probation Department, *Santa Barbara County Probation Department Volunteer Coordinator Grant Program: An Evaluation of Its Effectiveness* (Santa Barbara, California: Santa Barbara County Probation Department, 1973).

¹⁴ National Council on Crime and Delinquency, *So You Want to Start a Community Corrections Project?* (Washington, D.C.: National Council on Crime and Delinquency, 1974).

¹⁵ Scheier, *ibid.*, p. 16.

¹⁶ Richard Ku, *The Volunteer Probation Counselor Program, Lincoln, Nebraska, An Exemplary Project* (Washington, D.C.: Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, 1976).

reported that they have used volunteers from all walks of life and socioeconomic levels in the community.

The 1974 Franklin County, Ohio, project¹⁷ reported volunteerism to be generally a middle-class phenomenon. The mean age of the volunteers was found to be almost 32 years, with almost 70 percent of the volunteers being males and more than 65 percent married. The average education rested in the "some college" category. Two-thirds of the volunteers had had no prior experience in the criminal justice system.

The 1975 review of the Macomb County Michigan project¹⁸ reported 60 percent of the volunteers were female, with the mean education level falling in the 13 to 15 years category and the mean age in the 26 to 28 years range.

The 1972 review of the Anchorage, Alaska, project¹⁹ reported that 55 percent of the volunteers were males, 62 percent of the volunteers were married, and the average age was 30 years. The average education rested in the "some college" category. Sixty-four percent reported that they had done volunteer work before.

The 1976 Alameda County, California, project²⁰ reported that 63 percent of its volunteers were females, and 68 percent of the volunteers were nonwhite. More than 50 percent had at least a bachelor's degree.

Churches and religious organizations are a prime source of volunteers, as are graduates and undergraduate students of a local university or college. Community service groups and professional organizations representing occupations, such as teachers, accountants, businessmen, and social workers have often been recruited. Many volunteers have been referred by program staff and court and probation department personnel. In particular, judges have served as excellent recruiters.²¹ The volunteers project in Eugene, Oregon, has found that most persons will volunteer their services if they are personally asked the question: "Will you please give the Juvenile Department a hand with a delinquent boy or girl who needs a friend?"²²

Another widely used source of volunteers is volunteer bureaus. These bureaus act as clearing-houses to which interested persons can apply as volunteers by stating their interests and preferences for the type of program with which they would like to work. The volunteer program then approaches the bureau with its particular needs, and a volunteer is matched with the program most suitable for him.

As a supplement to each of these sources, individual word-of-mouth has been an indispensable means of recruiting. Communication about a program among friends and acquaintances has and will continue to assure a solid source of volunteer applicants.

Distribution of promotional materials by way of the mail, the press, radio, and television are other means often undertaken. While the above-described sources are recruiting techniques aimed at selected individuals, these latter methods are an attempt to inform a large, public audience of the program. Such mass approaches are then followed by more personal interviews for discussions of the program and more selective screening.

Screening and Selection

A key element in a successful volunteer project is the care the program takes in screening applicants, and the opportunity afforded the applicants to screen the project. There are basically six methods used in this two-way screening process: the application form, the personal interview, letters of reference, police checks, self-screening, and performance during training.

The application form itself can provide a wide variety of relevant information for administrative use. Nearly all volunteer programs personally interview potential volunteers. The interviews provide the applicant with more information about the program, while allowing the agency to determine if the applicant can work well in its particular program. Letters of reference provide an outsider's opinion of the applicant's ability to relate to and assist others.

Some projects require a preservice training exercise for potential volunteers. A volunteer's training exercise performance is often reviewed and compared to a minimum standard. Those who fall below the standards are often released. Self-screening, when the applicant himself examines the program and his own capabilities, resources, and motivation and decides whether to make the commitment to be a volunteer is a

¹⁷ Seiter, Howard, and Allen, *ibid.*, p. 26+.

¹⁸ Donald J. Amboyer, *Volunteer Probation Aides Project Evaluation of 1974* (Mt. Clemens, Michigan: Macomb County Probation Department, 1975).

¹⁹ Marjorie Hill, *Project Evaluation: Partners—Community Volunteer and Probationer in a One-to-One Relationship* (Juneau, Alaska: Alaska Department of Health and Social Services, Division of Corrections, Systems and Research Unit, November 1972).

²⁰ Robert O. Norris and Margaret B. Stricklin, *Volunteers in Probation Annual Report (December 1976)* (Oakland, California: Alameda County Probation Department, 1976).

²¹ Keith J. Leenhout, "The Volunteer's Role in Municipal Court Probation," *Crime and Delinquency*, Vol. 10, No. 1 (January 1964), p. 31.

²² Robert J. Lee, "Volunteer's Role in Municipal Court Probation," *Crime and Delinquency*, Vol. 14 (1968) pp. 331-336.

vital element in the screening process. Applicants must be given the opportunity to screen a project also; then as Seiter points out, "he knows more precisely into what he is entering. Highly desirable persons can become disenchanted with a program that is not quite what they thought it would be, and become ineffective volunteers."²³ The screening and selection process, Seiter points out, then becomes a two-way street, as administrators seek information to make judgments on the selection of volunteers and as volunteers seek information to make a judgment on whether to become a volunteer in this specific program.

Some work has been done in an attempt to identify the most effective volunteer. A 1975 study conducted in Toronto, Canada, by Pirs found housewives to be the most successful occupation category. Young volunteers were found to be just as successful as older volunteers. The study concluded that a wide variety of volunteers could be used without lowering the success rate of the project.²⁴

Training

A significant aspect of any volunteer program is training. More than a desire to serve is needed to be effective in volunteer service.

A multitude of training techniques are utilized from project to project. Slide shows, movies, large and small group discussions, role playing, one-to-one discussions and lectures represent a few of the techniques. Training can be conveniently categorized in a time sequence, namely: (1) training prior to a case assignment and (2) training subsequent to and concurrent with a case assignment.

The extensiveness of the training differs from project to project. The Macomb County, Michigan, project requires some 24 hours of pre-case assignment instruction.²⁵ The Partners project in Alaska offers training, but not all volunteers participate.²⁶ The Jackson, Indiana, Circuit Court projects reportedly offer no training at all to its volunteers.²⁷ Ninety percent of the studies reviewed offered at least some form of training to the volunteers. The remaining projects failed to discuss the training of their volunteers and thus, we are given no indication whether this is

due to a lack of training or just a failure to mention its existence.

Volunteer program training sessions generally focus upon more general approaches in working with probationers rather than dealing with specific skill development. Emphasis is placed on what to expect from a relationship with a probationer and on an examination of volunteer reactions to certain situations. In addition, some time is usually spent in orienting the recruit to the program's purposes and procedures.

Matching

The basic principle of sound matching is to identify the important needs of the probationer and then to make a match with the volunteer who is most likely to make a significant contribution to meeting the needs of the probationer.

Most programs seem to have identified a set of matching criteria to effect this solid relationship. Elements generally considered are: sex, age, ethnic background, education, intelligence, occupation, community contacts, interests, socioeconomic level, and counseling skills. As can be expected, the relative importance of each characteristic varies from project to project. The significance also varies within projects as different types of match relationships are sought.

We should note that a relationship model (discussed above) must be chosen that will best fulfill the probationer's needs. Following the selection of a relationship model, a volunteer match is sought that will maximize the likelihood of a successful relationship. One project claims a 75 percent successful match-relationship rate based on a subjective scale,²⁸ while others have low success rates and may be purposely not reported.

Most projects have experienced difficulty in effecting good matches. It is rarely possible to achieve the "best" match for all probationers. When it is not possible to identify the best match, the decision must be made whether to delay assignment or assign the probationer to the best available match. The ability of a project to make effective best available matches is the cornerstone of successful operations and continued project stability, second only to the maintenance of solid community support. To facilitate solid "second best" matches, projects seek to maintain an adequate supply of volunteers with the skills necessary to meet the probationers' needs. Selective recruitment of volunteers at the presentence in-

²³ Seiter, Howard, and Allen, *ibid.*, p. 17.

²⁴ Susan Pirs, *Assessment of Probation Programs in Metropolitan Toronto* (Toronto, Ontario: Ministry of Correctional Service, 1975).

²⁵ Macomb County Probation Department, *Final Evaluation Report: Volunteer Counseling* (Mt. Clemens, Michigan: Macomb County Probation Department, 1975).

²⁶ Hill, *ibid.*

²⁷ Hume, *et al.*, *ibid.*

²⁸ Ku, *ibid.*

vestigation stage and prompt reassignment of current volunteers to new cases can serve to increase the probability of effecting good matches.

Other matching problems have also arisen. Some projects are assessed by the gross number of relationships which are achieved. The result is an emphasis on the quantity of matchmaking, with little emphasis on the quality of the matches. Often the volunteer insists on being assigned to certain kinds of probationer, even though the matching rules indicate that the match would not be a good relationship. It appears that those projects which are short of volunteers will allow the match to take place, while those projects seeking to maintain high efficiency ratings will not.

At any given time, a certain percentage of the volunteers and the probationers are unassigned or are awaiting reassignment. The 1974 New Hampshire project²⁹ reported that almost 40 percent of their volunteers remained unassigned due to a lack of good project management. The 1975 Southfield Michigan project reported having received more volunteer applications than the staff could handle.³⁰ When a person seeks to become involved in a volunteer project, his interest can generally be expected to be high. The passage of time seems only to dampen that original enthusiasm. Some projects report a recruit to match time lag of only 30 days,³¹ while others report as long as 11 months.³² The 1975 Macomb County, Michigan, Project³³ even reported that some of their volunteers were never assigned a function at all.

The 1975 Wilmington, Delaware, project³⁴ reported that at times the delay was so extreme that the offender was already dismissed from probation before the volunteer was assigned to him. Needless to say, most projects attempt to minimize this time lapse.

Supervising the Match

Once a relationship model has been chosen and the match made, the supervision phase comes into prominence. The nature and degree of the

supervision varies from project to project. Volunteers, in most cases, are responsible either to the court, the probation department, or to the volunteer program. In general, we can classify the broad nature of probation officer supervision of volunteers techniques into five categories as follows:

- (1) No supervision.
- (2) Written reports after contact with assigned client.
- (3) Verbal reports after contact with assigned client.
- (4) Periodic meeting of volunteers administrative assistant and/or probation officer.
- (5) Feedback from client is solicited by administrative assistant.

The degree or intensity of the individual supervision is a direct function of three variables:

- (1) Probationer attitudes and progress.
- (2) Volunteer attitude.
- (3) Probation officer—volunteer supervisor attitude.

A critical organizational issue concerning the trade-off between volunteer discretion and organizational control merits some discussion at this point. A 1976 Georgia study summarized this issue as follows:

How much procedure and control are necessary for effective functioning without unduly sacrificing the advantages of flexibility? Flexibility is considered essential to accommodate the individual personalities of the volunteer and probationer. The point is to accomplish a goal, rather than to prescribe how it will be accomplished. Some parameters should be set, but a broad philosophical framework can be sufficient.³⁵

Horejsi, for example, describes a conceptual base from which the volunteer can plan his own intervention. His framework is called Motivation, Capacity, and Opportunity, or the M-C-O approach. The M-C-O approach helps the volunteer to view the probationer's problems within the context of three interrelated factors: motivation, capacity, opportunity. Motivation can be defined as what the probationer wants and how much he wants it. Capacity refers to various resources, skills, and abilities which a probationer possesses. Opportunity refers to opportunities in the probationer's social environment and those skills and services which the volunteer brings to the probationer's life situation. All three factors must co-exist before change is possible. As the volunteer works with the probationer, he needs to keep all three factors in mind and always relate them to that which the probationer defines as his problem.³⁶ On the other hand, adequate controls

²⁹ Ivette L. Gosselin, *An Evaluation of Coordinator of Volunteers* (Concord, New Hampshire: New Hampshire Probation Department, 1974), p. 5.

³⁰ City of Southfield, 46th District Court, *ibid.*

³¹ Hill, *ibid.*

³² *Ibid.*

³³ Amboyer, *ibid.*, p. 11.

³⁴ Harold W. Metz, *Volunteers in Probation: A Project Evaluation* (Wilmington, Delaware: Delaware Council on Crime and Justice, Delaware Department of Corrections, 1975).

³⁵ Jerry Banks, et al. *Issues Paper, Phase I Evaluation of Intensive Special Probation Projects* (Draft) (Atlanta, Georgia: Georgia Institute of Technology, School of Industrial and Systems Engineering, November 1976), p. 28.

³⁶ Charles R. Horejsi, "Training for the Direct-Service Volunteer in Probation," *FEDERAL PROBATION*, Vol. 37 (1973), pp. 38-41.

are necessary for organized functioning and as protective measures. Working with probationers is a sensitive area. Therefore, controls on the use of discretion by the volunteer are necessary, just as there are some controls on the use of discretion by law enforcement and probation officers.

Conclusions

While evaluations of volunteer projects have tended to support the concept and operational impact of VIP,²⁷ such projects must be undertaken with extreme caution, for they appear to be fraught with theoretical and operational pitfalls. There is some concern as to whether or not long term improvements in behavior can be brought about by involving an individual probationer in a volunteer program. Perhaps such involvement has only a short term cosmetic impact upon individuals' behavior patterns. Care should be taken in any attempt to obtain probation officers' support for a volunteers project and an effort made to insure their continued assistance. Operations must be streamlined in order to facilitate prompt processing and assignment of project applicants. An effort should be made to recruit volunteers with socioeconomic backgrounds similar to the probationer population and a special effort made to become more responsive to the female probationer. It appears that an attempt should also be made to screen out probationers who do not have the desire to truly participate in the project.

Mounsey has observed that while criticism of, and objection to, volunteer projects does have a basis, a more constructive approach would be to stress that these problems can be minimized through the coupling of a desire to succeed with a skillful administration of the project guidelines.²⁸

Issues To Be Addressed

There remain many critical aspects of volunteer project operations which have not yet been resolved. Further consideration of these issues would certainly be in order. Such topics would include:

(1) What information should be used to determine which probationers participate?

(2) What information should be used to determine who should be accepted as a volunteer?

(3) What can be done to improve external communication lines between the court, the probation department, the probationer, and the volunteer project.

(4) What can be done to improve internal communication lines between the volunteer, the supervisor, the administrative assistants, and the chief administrator?

(5) What information should be used to determine which relationship model to utilize in order to achieve maximum individual benefit?

(6) What information should be used to determine who should be matched with whom in order to achieve maximum individual benefit for the volunteer, the probationers, and the system?

(7) What can be done to decrease the time lapse from volunteer or probationer selection to match?

(8) What can be done to improve recordkeeping capability and accuracy on the part of the project staff?

(9) What can be done to minimize friction between volunteer and probation department personnel?

(10) What can be done to more thoroughly communicate project purposes and procedures to participants?

(11) How much discretion should be given the volunteer in his dealings with his probationer? Should different volunteers be given different amounts of discretion? Should different relationship models be given different amounts of volunteer discretion? What information should be utilized to make this differentiation?

(12) What can be done with the volunteer to assist female probationers?

(13) What can be done to reduce the indirect coercion of the convicted offender to join a volunteer project?

(14) What can be done to maximize the amplification and diversification of volunteer services while minimizing societal risk and operational costs?

²⁷ See Eskridge, *ibid.*, and Scioli and Cook, *ibid.*

²⁸ S.C. Mounsey, "Resistance to the Use of Volunteers in a Probation Setting: Some Practical Issues Discussed," *Canadian Journal of Criminology and Corrections*, Vol. 15, No. 1 (January 1973), pp. 50-58.

An Analysis of Contemporary Indian Justice and Correctional Treatment

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NATIVE American justice is currently embroiled in controversy and this dilemma seems to be exacerbated by the two popular, yet contravening, perceptions of this phenomenon. People tend to examine Native American justice from either the aboriginal customary judicial perspective or from the white adversary judicial perspective. Neither perspective accurately portrays a realistic picture of the situation. Clearly, the only viable perspective to Native American justice seems to be a synthesis of these two orientations.

The "harmonious/aboriginal thesis" and its focus on traditional tribal law offers valuable insight into the Native American cultural folkways and customs as they existed both prior to, and during the early stages of white contact. But it is foolhardy to pretend that the aboriginal system exists in its pure form anywhere in the United States today or for that matter, that this system can be reconstituted. Perhaps a contemporary Sioux saying best reflects this cultural time bridge: "The days of the buffalo are gone forever."

By the same token, the "Competitive/white antithesis" and its focus on formal, adversary law tends to obviate viable Native American cultural attributes which have survived or have evolved over time. Clearly, many of the attributes of the Native American "harmony ethic" are contrary to those prescribed by the Western "protestant ethic." And there is little doubt to the fact that the U.S. criminal justice system has a narrow, ethnocentric biased perspective, one that tends to view American Indians as well as other racial, ethnic, sex, age and class groups as "outsiders" to the dominant normative structure.

Medcalf (1978), in her challenging book—*Law and Identity*, articulated this dilemma by pointing out the legal Catch-22 Native Americans often find themselves in terms of government-directed, legal policy. She portrayed the law as a mechanism of legal control and, consequently, minority

suppression, contending that this remains the ulterior function of so-called "sympathetic" liberals, as well.

Here she weaves an intricate discussion linking the philosophical ideals of John Locke, notably its American liberal adaptation, to U.S. policy which, on the surface, seems to be manifestly directed toward helping the American Indian find his place within the larger dominant social order. Particular focus is placed on the 1968 (Titles II-VII) Native Bill of Rights. Her argument is clear, legal solutions to Indian problems are superficial, if not suspect, at best: "To think of other human beings in terms of rights is to rob them of much of their humanity, because it reduces humanity to the bare essentials . . . to reduce human relationships to rights and responsibilities, one against the other, is to render human relationship possibilities barren, to make human relationships an 'irreducible minimum' just short of nothing at all (p. 125)."

However, Medcalf made the common error of jumping from an effective critique of the "competitive/white antithesis" to that of the "harmonious/aboriginal thesis" somehow giving the impression that the latter is the "real" solution to the Indian dilemma: "Reexamination of the Indian Civil Rights Act, which extends constitutional guarantees to all individual members as against the tribe, provides an example. Such constitutional guarantees assume the prior absence of individual rights. But Native Americans must have had traditional ways of relating to each other and to their 'governments.' Why then institute individual rights against the tribal government (p. 125)?"

The American Bar Foundation has recently taken the opposite position. In its report, *American Indian Tribal Courts*, Brakel (1978) argued that tribal courts and tribal justice are white American creations and that the Indians have a difficult time administering white-type justice to their people. The study even went on to condemn the reservation system claiming that: "They

are little more than depressed areas for marginal and dependent societies of Indians, whites, and mixed-bloods. They are sociological nurseries to which those who find life difficult outside can always return, places of more or less voluntary detention for the ones who have never left, zoos for white tourists, and laboratories for academics (p. 102)."

Thus, while this report stressed many of the same points Medcalf did in her book, Brakel argued in favor of a greater reliance upon the "competitive/white antithesis": "The tribal courts do not work well, and necessary improvements would require much time and involve many difficulties. To perpetuate them at all runs counter to the evolutionary trends in the Indians' relation to the dominant culture in this country. Therefore, it would be more realistic to abandon the system altogether and to deal with civil and criminal problems in the regular county and state court systems (p. 103)."

PanIndianism: The Native American Synthesis

The genesis of contemporary Native American movements extends back to the years following the Second World War when young Indian servicemen organized the National Congress of American Indians (NCAI). While other white-sponsored Indian advocacy movements preceded the NCAI, this was the first viable Indian-sponsored program. Later, a more radical-oriented Indian group emerged in the early 1960's. This was a reaction to what young Native Americans, during the turbulent 1960's, felt to be the ineffectiveness of the NCAI. The National Indian Youth Council (NIYC) challenged the now middle aged membership of the NCAI while at the same time following the trend of other discontented youth of the time. NIYC fostered the more radical

AIM (American Indian Movement) faction much like the SDS fostered the "weathermen."

These growth problems aside, Indian movements were instrumental in promoting a positive universal Indian image—an image that did much to dispel the old negative stereotypes long promoted in movies, in books and on television. This phenomenon soon became known as the Pan-Plains Indian movement. Not only did Native Americans seek out a common ethnic image, they now strived for self-sufficiency and self-determination. It was within this protest environment that young Indian scholars began to consolidate their efforts so as to best serve their people.

Correspondingly, a number of Indian-run, Indian interest groups and organizations emerged. In 1964 the American Indian Historical Society became incorporated and has served from that time as the Native American academic honor society disseminating Indian news and scholarly works through its press (Indian Historian Press) and its publications (Wassaja, Indian Historian, Wee Tree as well as many books by Native Americans).¹

Other Indian organizations soon followed suit: the Mohawk Nation's *Akwesasne Notes*; the Institute for the Development of Indian Law's, *American Indian Journal*; the American Indian Faculty and Staff Association at the University of Oklahoma and its influence in the development of the *American Indian Law Review*, and the Native American Rights Fund and its *National Indian Law Library Catalogue and Announcements*.

Moreover, Indian scholars like Vine Deloria, Jr., Bea Medicine, Rupert Costo, Adolph Dial and others did much to disseminate this information to the general public through professional, academic and public meetings, assemblies and media events. They served notice to the rest of the Nation and the world that the popular negative stereotypes of American Indians as being simplistic, primitive and savage entities would no longer be tolerated. Hence, the 1960's and 1970's saw an increase in Indian attorneys, scholars, medical doctors, administrators and the like. This was the Indian response and the emergence of contemporary panIndianism.²

Native American Correctional Survival

Native American correctional survival is the basic philosophy of the special, Federally supported, Swift Bird project, the Indian-run, mini-

¹ The Indian Historian Press has published a number of scholarly works by Native Americans, notably: The Pueblo Indians (Sando), Indian Treaties (Costo and Henry), The Only Land I Know (Dial and Eliades), The Iroquois in the Founding of the American Nation (Grinde), Textbooks and the American Indian (Costo and Henry), Legends of the Lakota (LaPointe), The Right to be Indian (Schusky), Give or Take a Century (Senungetuk), Tsali (Bedford), Pima and Papago Ritual Oratory (Bahr), When the Navajo had too Many Sheep (Boyce), Anthropology and the American Indian (Costo and Henry) among others.

² Also see the Task Force Reports of the American Indian Policy Review Commission, notably:

- No. 1. Federal Indian Relations. Hank Adams, chair.
- No. 2. Tribal Government. Wilbur Atcity, chair.
- No. 3. Federal Administration. Sam Deloria, chair.
- No. 4. Federal, State and Tribal Jurisdiction. Sherwin Broadhead, chair.
- No. 5. Indian Education. Helen Scheirbeck, chair.
- No. 6. Indian Health. Everett Rhoades, chair.
- No. 7. Reservation and Resource Development and Protection. Peter MacDonald, chair.
- No. 8. Urban and Rural Non-Reservation Indians. Al Elgin, chair.
- No. 9. Indian Law Revision. Peter Taylor, chair.
- No. 10. Termination and Non-Federally Recognized Indians. Jo Ho Hunt, chair.
- No. 11. Alcohol and Drug Abuse. Reuben Snake, chair.

mum security prison located in South Dakota designed to serve Plains Indian inmates. The concept actually stems from the Indian survival school philosophy which has its roots in the Red School House in St. Paul, Minnesota.

Basically, the Indian survival philosophy works on the assumption that much of the contemporary Indian problems are grounded in "marginality," the process of being caught between two worlds (the traditional Indian and the white dominant cultures) with little hope of fully belonging to either (Park, 1950; Sellin, 1938). Indian survival attempts to strengthen the Native American's self-image, what they refer to as their "Indianism." Once this task has been accomplished emphasis is then given to learning the basic skills necessary to survive in both of these cultural worlds.

Until cultural building and other preventive programs emerge, the "Native American synthesis" will have to continue to focus upon its current ex post facto, resocialization programs. Presently, two Native American correctional orientations offer programs which fit the Native American synthesis perspective: (1) Indian correctional institutions exclusively for Native American clients, and (2) Native American prison survival schools for Indian clients incarcerated within larger inmate populations.

The Institute for the Development of Indian Law described the problems with typical State and Federal prisons in relation to Indian clients as such: "The prison environment, in which a disproportionate number of Native Americans find themselves, given the selective and discriminatory law enforcement system, is one which they find especially hostile and alien. Indians are greatly overrepresented in prison populations, yet often lack a voice in their operation (Kickinbird, 1978:19)."

The Native American Rights Fund (NARF) initiated changes that would attempt to resolve some of these problems articulated by Kickinbird. They first initiated action within the State prison system through the Federal courts and later helped to develop the first Indian-run correctional

facility for Indian clients—the Cheyenne River Swift Bird project.

Indian Corrections—Swift Bird Facility

In their first significant criminal suit, the Native American Rights Fund was instrumental in bringing about needed changes in the Nebraska prison system. Here NARF successfully argued a class action suit for the Indian inmates, filed in U.S. District Court against the director of the Nebraska Correctional Services Department (October 1974).

A summary of the charges are as follows: "Plaintiffs who comprise the class of Indian inmates incarcerated in the Nebraska Penal and Correctional Complex sued (the) defendant . . . claiming certain deprivations of rights secured to them under the First and Fourteenth Amendments . . . Specifically, plaintiffs claimed that officials refused to permit an Indian Culture Club; that access to Indian religion, including the Native American Church was denied to them; and that they were discriminated against in various ways in the rehabilitation process including work release, work assignments and the failure to provide Indian counselors and instructors (*Indian Inmates of the Nebraska Penitentiary v. Vitek*, No. 72-L-156, D.Neb., Order of October 31, 1974)."

The suit resulted in the court ordering a number of changes including allowing Indian inmates to wear their hair long in traditional hairstyles, for official recognition of an Indian spiritual cultural club including the construction of sweat lodges and the use of medicine men for services. This order also included the Native American Church but the Nebraska Department of Correctional Services has "stonewalled" all attempts to implement this element of the court order (see Public Law 95-341/August, 1978).

Moreover, it was decreed that the Nebraska correctional department would formulate an affirmative action plan designed to hire Indian personnel at their facilities and that the Nebraska penal and correctional complex was to provide accredited courses relevant to Indian culture and Indian studies for their Native American clients.

Indeed, this was a victory over past penal policies directed toward Indian cultural genocide, the process of destroying Indian culture for the purpose of forced assimilation.³ Indian inmates in Nebraska now have an opportunity to retain aspects of their cultural heritage, and to even

³ Most Indian scholars and Native American leaders commonly refer to the long history of public policy designed to accommodate Indian culture as "cultural genocide." Involved in this process are a number of critical governmental doctrines, including: (1) 1830, Removal Treaty; (2) 1868, Treaty of Fort Laramie; (3) President Grant's Peace Policy of 1870; (4) 1883, Ex Parte Crow Dog; (5) 1885, Major Crimes Act; (6) 1887, General Allotment (Dawes Act); (7) 1898 Curtis Act; (8) 1924, Indian Citizenship Act; (9) Wheeler-Howard (Indian Reorganization Act), 1934; (10) Indian Claims Commission Act, 1946; (11) Public Law 280 (termination), 1953; (12) 1954, Relocation; (13) Indian Civil Rights Act, 1968; and (14) Indian Self-Determination, 1975.

strengthen it, while incarcerated. More importantly, this suit was the forerunner of the Cheyenne River Swift Bird Project—the prototype of Indian-run correctional facilities to be developed across the Nation.

This alternative Indian rehabilitation center was the product of Indian and white faculty and students at the University of Nebraska working in conjunction with NARF staff. The director of the facility, Rick Williams (Lacota Sioux) was a student at the University of Nebraska when the idea was conceived. Following his graduation, he served an apprenticeship with NARF under the direction of Walter Echo-Hawk, one of the NARF attorneys involved in the Nebraska penal suit.

The Swift Bird facility is a voluntary pre-release Indian-run correctional facility designed to serve Native American clients from five northern Plains states (South and North Dakota, Nebraska, Minnesota and Montana) as well as the Federal Bureau of Prisons. The concept of Swift Bird is to provide individualized "cultural reprogramming" for short-term Indian clients convicted and sentenced in either Federal court and/or in the courts of the participating states.

According to the Swift Bird mandate these volunteers: "Shall be dealt with humanely, with efforts directed toward their rehabilitation and return to the community as safely and promptly as practicable (Echo Hawk, 1977:13)." Native American cultural and spiritual treatment are important considerations with the Swift Bird comprehensive classification and rehabilitation program effort.

As mentioned earlier, this orientation is similar to that employed by Native American "alternative" and "survival" schools. The basic premise here is that a person has to feel good about himself and who they are before they can become fully responsible and autonomous members of society. Alternative and survival school orientations stress the positive attributes of being Indian, reinforcing the panIndian and particular cultural orientation of the client's home world environment, while at the same time providing the necessary skills needed to survive in the dominant white culture.

The Cheyenne River (South Dakota) Swift Bird facility was opened in the Fall of 1979 and only time will tell if it is successful. Perhaps the greatest obstacle to this program is the contravening jurisdictions involved and the lack of

a clear legal mandate for the clients they serve. All clients (up to 70) must be admitted on a voluntary basis under a contractual agreement made between the Swift Bird staff and the sending institutions. Thus the sending units have ultimate jurisdiction and legal custody over their clients while they are at Swift Bird. The Native American prison survival concept has equal relevance to Indian clients incarcerated in State and Federal penal facilities. It tries to provide the essence of the Native American resocialization within both types of correctional environments.

Indian Prison Survival Schools

Indian prison survival schools have a serious mandate in that they must overcome the damage already done by the prisonization and reservation life. Consequently, the Indian survival curriculum must consider certain cultural attributes unique to Native American clients. This involves the important first phase of Indian survival school programs—the development of a sense of Indian self-worth (the opposite of trying to "white-wash" Indian clients). The next phase involves learning the basic skills necessary to cope within both the Indian white worlds. Indeed this is a challenging endeavor for any person and more so for those already suffering the stigma of incarceration.

The "Indianism" process involves teaching the marginal Indian his cultural roots, panIndianism and the tenets of the "harmony ethic." Here the client is exposed to the Indian orientation and encouraged to adopt a native-oriented cognitive style. Native American learning strategies include teaching native custom, rituals and language, all designed to enhance the person's self-awareness and to provide a positive, "cultural proactive" status resulting from incarceration. A consequence of this educational process is the shared, collective panIndian identity.

Once these attributes are internalized, the marginal Indian can begin to reassess his past failures and ascertain why he/she is plagued by alcohol, violence and/or incarceration. Moreover, it is at this level of awareness that conventional treatment modalities can be introduced into the cultural program. And the introduction of popular counseling and/or experiential group modalities into the program does not provide an alien element since consensual treatment itself has a long aboriginal tradition, existing within Native American groups centuries prior to group psychother-

apy, T-groups, encounter groups, network therapy and the like came into vogue within western societies.

The final institutional stage of the Indian survival program is dedicated to teaching Indian inmates how to cope beyond their subculture and make it in the larger, white-dominated society as well. The teachers in both phases of the Indian prison survival school program should be comprised of both Indians and non-Indians. Indeed, traditional Indian inmates make excellent teachers in both phases. These individuals, unlike their marginal counterparts, seem to have a better sense of their cultural identity including the relevant rituals, the language and the like, hence seem to maintain a strong sense of their "Indianism" even when incarcerated. This is the basic format of the Indian prison survival school.

In conclusion, it is interesting to note that Native Americans have long been expected to understand both cultural world views (harmony and protestant ethos) while members of the dominant culture, especially those involved in legal and social service delivery (prosecutors, judges, law enforcement officers, defense attorneys, correctional, social service and health personnel, psychologists, psychiatrists, teachers . . .) usually do not feel compelled to have to try and understand American Indian cultures. The "Native American synthesis" allows for this cross-cultural educational exchange between both Indians and non-Indians while neither the "harmonious/aboriginal thesis" nor the "competitive/white anti-thesis" considers this form of reciprocity being

viable. Cultural survival according to the "Native American synthesis," is a two-way process. This perspective also recognizes the value in the preservation of one's unique cultural heritage, therefore, makes a distinction between forced accommodation/assimilation or other attempts to obviate attributes of Native American cultures and the reality of cultural pluralism.

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"THE DEMANDS of civilized life on man are subtly and cruelly exacting; the fine discriminations demanded of him are innumerable and difficult." So stated a psychiatrist in the 1930's, years prior to World War II, jet airliners, "the bomb," and the "cold war." Many feel that such demands have become exacting and that such discriminations are even more innumerable and difficult. Perhaps increases in divorce, mental illness, alcoholism, and the incidence of ulcers attest to the pressures involved in living in contemporary society. Is this to say that it is difficult for the majority of people, who have been born and reared in this society, to adjust to it? What then about those who were neither born nor reared in it but who are expected to adjust to it?—ARTHUR S. RIFFENBURGH

New Amsterdam's Jail Regulations of 1657*

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DURING the first half of the 17th century, the Dutch tried to establish permanent settlements in North America. In 1609, Henry Hudson had discovered the island of Manhattan, past which Adriaen Block sailed up the great Hudson river in 1613 as far as the site of the present city of Albany, opposite which a fort was built. Settlements were also begun along the Delaware river, but it was the Dutch West India Company, organized in 1621 and with headquarters in Amsterdam, that established a settlement in 1626 on the southern tip of Manhattan and named it New Amsterdam. It was to become the most important of the many scattered settlements along the Hudson and Delaware rivers that the Company encouraged in the interest of trade until 1664, when the British conquered the entire province of New Netherlands.

New Amsterdam was little more than a village by modern standards. A small advance party had prepared the site in 1625 and had begun the construction of a fort or blockhouse. When the main group arrived the following year, its members built within a few months "nearly thirty homes . . . of unpeeled logs and thatched with reed, on the west side of the island, running north and south, above the unfinished fort, with a counting house of stone under construction, a bark windmill for sawing lumber, and another for grinding corn."¹ By 1630 there were about 300 inhabitants and about 1,500 at the time of the British conquest. The settlements of New Netherlands had fewer than 7,000 inhabitants altogether in 1664.

The center of New Amsterdam was the quadrangular fort, which was about 300 feet long and 250 feet wide when completed. Within its bastions were "the governor's house, the barracks (for the small garrison of soldiers), a prison, the whipping post and gallows."² Beyond it, northward to a wall or palisade, which ran across the island where Wall Street now lies, stood the houses of the settlers.

As the years passed and the economy of the

community improved, the population came to include more and more families who had migrated to the town of their own accord. A class of burghers developed, whose interests and activities were hampered by the government imposed by the Company's director general, his council and the *schout fiscal* who was the chief law enforcement officer of the community. The burghers increasingly demanded a voice in the management of local affairs and in 1653 substantial rights of self-government were granted them. These rights included the election by popular vote of two burgomasters, five *schepens* and a *schout*. The Town Hotel (*Stadts Herbergh*) outside the fort was converted into a Town Hall (*Stadthuys*) and became the seat of the new municipal government.

Before this event, the administration of justice had been entirely in the hands of the Company's local officials. The director general and his council continued for a time to retain the power to sit in trial of burghers accused of capital crimes and to act as a court of appeal from decisions of the municipal *schepens*, who at first tried the less important criminals, but in 1660 received the power to try capital cases. This was also the year the town elected its own *schout*; until then the *schout fiscal* of the Company had also acted as town prosecutor.

We have noted that one of the buildings inside the fort was said to be a prison, but the date of its construction is uncertain. In the beginning, when the garrison and the civilian population were small, a guardhouse probably sufficed for the temporary detention of those suspected of crime, for imprisonment as punishment was a rarity. The common sanctions were a fine, exposure in stocks or pillory, whipping and banishment, and the gallows. There is some evidence that a prison (*Gevangenhuis*) was built inside the fort some time between 1643 and 1651 but little is known about it. Of greater interest to us is the jail installed in the Town Hall, when municipal government was inaugurated in 1653.

The Town Hall had been built by the Company

* This article was published, in German, in the June 1967 number of the *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, dedicated to Hans von Hentig.

¹ Charles M. Andrews, *The Colonial Period of American History*, Vol. 3, p. 74 (New Haven and London: Yale University Press, 1964).

² *Ibid.*, p. 78.

in 1642 to be a hostelry for the lodging and entertainment of visiting traders. It was built of stone, and Morrison describes it as a building "four full stories high with a spacious garrett under the steep roof, which was covered by red pantiles and topped by a belfry."³ It was somewhere in this structure that jail accommodations were provided, convenient to the court of schepens, and it was probably in 1657—when it was decided that all burghers accused of crime were to be detained in the town's jail and Anthony Lodewycksen Baeck was appointed its keeper at a salary of 150 florins per annum—that the burgomasters and the schepens prepared a set of instructions that contain the first comprehensive regulations issued for the management of a municipal jail in colonial America.

Instructions for the Keeper of the Jail and Public Prison⁴

(1) The keeper of the jail of this City is bound to receive into the jail all prisoners, who shall be committed or delivered over to him by the Schout, Burgomasters and Schepens or Burger Court Martial (who are allowed this provisionally and until further order) or in their name.

(2) The Jailer shall safely keep all prisoners sent to him, whether they be arrested on civil or criminal process.

(3) The Jailer shall sleep every night in his ordinary chamber and not out, except by consent of the President; and if he remain without consent, he shall be fined for the first time 20 stivers, for the second time 30 stivers, for the third time be deprived of his office, even though there be no prisoners in the public jail.

(4) And if it happen that any prisoners break out or escape through neglect of the Jailer, he may be sued therefor and he must defend himself before the Judge.

(5) Item, the Jailer is bound to note down when the prisoners are brought into the public gaol and the name and surname and also when they are discharged, and what cloaths, money, goods they brought with them into the prison and deliver in every Monday a list of the prisoners.

(6) The Jailer shall also look closely after the prisoners apprehended for capital offences that they have not knives, irons, rope or other instru-

ments to break out or to injure themselves; the Jailer shall also thoroughly visit the prisoners and the cells at least two or three times a week either by night or by day, and may take as Assistant the Schout's deputy, who is bound to aid him at his request.

(7) The Jailer also shall not be allowed to relieve prisoners from their fetters nor increase them except by consent of the Schout, Burgomasters and Schepens, unless through cause of a desire to break out; he may then increase them and secure them by day or by night, and shall immediately make known those, who are secured, to the Schout and President.

(8) Item, the Jailer cannot give those who, for fighting, drawing knives or other arms, are placed on bread and water, or let them have anything else, nor even sell them anything, unless by consent of Schout, Burgomasters and Schepens.

(9) The Jailer must not tap, (i.e., sell liquors to the prisoners) nor hold with the prisoners any conversation of games, drinking, or otherwise.

(10) The Jailer shall furnish the prisoners meat and drink according to order and shall receive for it according to the rules granted him therefor.

(11) The Jailer shall inspect and clean the prison every week so that no stench may arise, wherein the Schout and Judge shall pay attention that it be properly obeyed.

(12) The Jailer shall not allow any one to come to speak to the prisoners except through the grating, without consent of the Schout and Praeses.

(13) No person shall speak to the prisoner until he be examined by the Judge for some offense.

(14) No person shall pass the night with a prisoner for any offense, even though man and wife.

(15) The Jailer shall separate the prisoners as much as possible from each other, and arrange them according to their offenses and persons; especially the women from the men.

(16) The Jailer shall not receive any prisoners in the gaol except with the consent of the Schout and Judge or of the Officer of the Burgher Court Marshal."

The *Instructions* also provided for the following *Allowance of the Jailer*. "The Jailer shall have for locking and unlocking each prisoner fl. 6. He shall receive for criminal cases on bread and water per day—10. From those confined on civil

³ H. Morrison, *Early American Architecture*, New York: Oxford University Press, 1952, p. 105.

⁴ Reproduced in Berthold Fernow, ed., *The Records of New Amsterdam from 1653 to 1674, Anno Domini*, Vol. II. *Minutes of the Court of Burgomasters and Schepens, 1656 to August 27, 1658 inclusive*. New York: The Knickerbocker Press, 1897, pp. 294-296.

process he shall receive 20 stivers per day or so much as the Judge shall please to order."

Each week a prisoner was to receive "three lbs. of beef; one lb. and a half of pork, one loaf . . . two cans of small beer in summer per day and one can of small beer in winter; pottage and cheese (*zuivel*) occasionally." If any prisoner wanted more than that he had to pay "pro rata." "Those who sit in the prison chamber shall have a candle every two days, and shall let this burn in summer until nine o'clock, and in winter until eight o'clock and no longer; but no fire nor light in the other rooms of the prison."

What is impressive in the Instructions is their attention to the details of management and the fact that all the rules and regulations were assembled in a single document, so different from the manner in which the British neighbor colonies

dealt with their jails. It is not surprising, however, if one recalls that highly detailed rules of jail management were already common in the Netherlands as in other European countries. Nor would it surprise any one to discover a close affinity between the New Amsterdam rules and the regulations of the jail of old Amsterdam, since the mother city provided the pattern for the organization of the municipal government of its offspring. This is what actually occurred. In Olfert Dapper's *Historische Beschryving der Stadt Amsterdam*, published in 1663, we find (pp. 513-514) the rules governing the *cipier* or jailer of that city. They are not only substantially the same as the rules of New Amsterdam but the first eight regulations thereof are so identical with and given in almost the same order as the New Amsterdam rules that one may assume that they were literally copies.

Security Designation System: Preliminary Results

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IN THE MARCH 1979 issue of *FEDERAL PROBATION* there was an article (Levinson & Williams, 1979) describing a new inmate classification system which was being pilot-tested in the Federal Prison System. During its developmental stages and subsequent to the new procedure being adopted on a systemwide basis—on April 15, 1979—data were gathered to assess the effectiveness of this different approach to classification. This article reports on those preliminary findings.

A basic question that must be answered concerning the implementation of any new system, is: Has anything been improved? In order to answer this question six criteria were established; the new classification system would have demonstrated its utility if it:

- (1) Confined inmates in the least secure facilities for which they properly qualified.
- (2) Kept the inmate population in better bal-

ance throughout the Federal Prison System.

- (3) Decreased the number of transfers, particularly for custody reasons.
- (4) Reduced the number of inmates seeking placement in Protective Custody.
- (5) Eliminated "preferential transfers" between institutions.
- (6) Made better use of available resources.

Each of these points will be examined below using data collected from several projects conducted in the Western, South Central, and Northeastern Regions of the Bureau of Prisons (BOP).¹

Findings

- (1) *Are inmates appropriately confined in less secure facilities?*

One of the charges frequently made by critics of incarceration is that correctional institutions "overclassify" their inmates. It is asserted that correctional administrators confine prisoners more securely than is warranted. The correctional administrator is faced with the dilemma of either

¹ The author is indebted to the following Bureau of Prisons Regional Research Administrators for making available the assessment data: Helene Cavior, Western Region; Jerry Mahli, Ph.D., South Central Region; and, Marshall Haines, Northeastern Region.

being overly punitive—locking up 95 percent of the inmate population in secure facilities appropriate for 5 percent of the prisoners—or being naively humane—assigning too many inmates to minimum security institutions and answering for large numbers of escapes.

The “appropriateness” of the new system’s designations was assessed in terms of number of escapes and number of assaults; an increase in either or both of these measures would be viewed as indicating that the new procedures produced inappropriate designations. Findings from several projects show:

(a) The new approach did not increase the number of escapes from Safford, a Western Region minimum security prison camp. The escape rate was 2 per 100 inmates for the first 6 months during which the new system was in operation, the same as it had been for the 6-month period prior to the new system’s initiation.

(b) The escape rate from the nine BOP institutions in the Northeast was compared for two time periods—3 months prior to and 3 months after the new system was initiated; overall there was a decrease in the rate-per-100 inmates with only the minimum security facility showing a slight increase.²

(c) Comparing assault rates for a 6-month period under the new system with the same 6-month period prior to its beginning, table 1 shows no overall change—1 per 100 inmates. Additionally, although two of these facilities showed an increase, and two showed no change, five institutions showed a decrease in assault rate.

TABLE 1—Assault Rate Per 100 Inmates (NE Region)

	PRE: 6/12/77— 12/14/77	POST: 6/12/78— 12/14/78
Lewisburg (S/L-5)	.76	1.1
Petersburg (S/L-3)	2.0	2.9
Danbury (S/L-2)	.80	.41
Allenwood (S/L-1)	.21	0
Lewisburg Camp (S/L-1)	0	0
Morgantown (S/L-1)	.81	.52
Petersburg Camp (S/L-1)	0	0
Alderson (Administrative)	1.3	1.2
NY-MCC (Administrative)	1.8	.74
TOTALS	(51 incidents)/ (5120 inmates)	(48 incidents)/ (4765 inmates)
	= 1.0	= 1.0

Thus, it would appear that the new system does make appropriate designations in terms of

both escape and assault rates. What is the evidence that indicates that it also places newly committed prisoners into less secure institutions?

Prior to the start of the new system, designations were made by BOP Community Programs Officers. In the Western region a comparison was made between the actual designations they made and what institutions would have been assigned for these same inmates if the new system was followed (table 2). Using a simplified weighting procedure, designations made under the previous and the new approaches were compared. The figures in table 2 were converted to a “designation index”—the higher the index the more secure the institutions to which the inmates were assigned. (The number of inmates placed in each security level was multiplied by the “value” of that facility; e.g., three inmates assigned to S/L-4 results in a designation index of $3 \times 4 = 12$.) Eliminating those prisoners sent to Administrative Facilities, the previous system has a designation index of $49/31=1.58$; while under the new system it would be $47/35=1.34$. The new system does place inmates in less secure facilities.

TABLE 2—Distribution of Inmates by Previous and New Systems
Levels of Security

	A*	1	2	3	4	5	6	
Previous system	4	22	5	0	3	1	0	= 35
New system	0	27	4	4	0	0	0	= 35

*A = Administrative

Therefore, the answer to question one is: yes. The new designation system does confine inmates appropriately in less secure institutions.

(2) *Has the new system brought the total Bureau of Prisons into better balance?*

One of the problems it was hoped the new designation system would rectify dealt with the issue of some institutions being greatly overcrowded while others—located in areas distant from large population centers—were underutilized. The effect the new approach has had in “evening out” this overpopulation burden is difficult to assess in light of the Bureau’s overall decline in population. In December 1977 the Federal system averaged 27 percent over physical capacity with a standard deviation among its institutions of 43.7; in October 1979 BOP was 4 percent above capacity with a standard deviation of 35.1. To the degree that a smaller spread in percent-over (or percent-under) capacity represents a more even distribution of inmate population, there is some indication a better balance has been achieved.

² The new Security Designation System categorizes institutions into six security levels—S/L-1 being most minimal to S/L-6 most maximum—based on their perimeter security and both internal and external architectural features; an additional—Administrative—category is used to assign inmates when reasons such as medical/psychiatric needs override security considerations.

In addition to a mal-distribution of numbers of prisoners, another problem was recognized; namely, the need to achieve a better racial balance across institutions. Table 3 compares two time periods (pre- and post-initiation of the new system). At each Security Level the institution with the highest and lowest percentage of black and white inmates was listed; their difference in percentage points is shown in the parenthesis. The result of a comparison between the figures in parentheses is reflected by: "decrease" (—), "increase" (+), and "no change" (=). For both the black and white inmates the "spread" decreased in 3 of the 5 security levels; overall there were 6 decreases, 2 increases, and 2 no change.

TABLE 3—Change in Racial Distribution of Inmate Population

		Black			
		(5/21/79)		(12/3/79)	
S/L 1	Hi	56%		49%	
	Lo	7%	(49%) *	6%	(43%) —
S/L 2	Hi	48%		44%	
	Lo	7%	(41%)	8%	(36%) —
S/L 3	Hi	69%		68%	
	Lo	18%	(51%)	17%	(51%) =
S/L 4	Hi	48%		53%	
	Lo	33%	(15%)	31%	(22%) +
S/L 5/6	Hi	62%		60%	
	Lo	32%	(30%)	32%	(28%) —
		White			
		(5/21/79)		(12/3/79)	
S/L 1	Hi	85%		78%	
	Lo	43%	(42%)	49%	(29%) —
S/L 2	Hi	91%		88%	
	Lo	51%	(40%)	56%	(32%) —
S/L 3	Hi	71%		70%	
	Lo	30%	(41%)	32%	(38%) —
S/L 4	Hi	63%		65%	
	Lo	51%	(12%)	46%	(19%) +
S/L 5/6	Hi	67%		69%	
	Lo	38%	(29%)	40%	(29%) =

* Difference in % points between Hi and Low

Dec vs. May
No. — + =
6 2 2

Thus, the answer to question two is: yes. As a consequence of the attention paid to this factor, the new designation system appears to have brought the institutions of the Bureau of Prisons into better balance.

(3) *Has the new system decreased the number of transfers?*

Apparently almost all correctional systems suffer with the problem of too many transfers. One possibly apocryphal story tells of the correctional system that had more transfers in 1 year than it had inmates.

The thinking which underlies the new designation system focused on the idea that if inmates were "correctly" assigned initially, there should be less need for continual shifting. It was recognized that movement "up" or "down" the security levels was important, but the hope was that such changes could be systematized, and by making them more consistent, be reduced. This would not only diminish a burden for management, but it would help inmates avoid the constant upheaval and program disruption caused by excessive transferring.

Data collected during the first 4 months of the Western region designation project indicate a 13.5 percent decrease in transfers to camps, compared with a 4.3 percent increase in camp transfers during this same time period in other regions. Moreover, data for the entire Federal Prison System show that the average of transfers per month decreased from 925 before the new system was begun to 366 after it had started.

Consequently, it would appear that question three can be answered in the affirmative; the goal of reducing transfers seems to have been accomplished.

(4) *Has the new system reduced the number of inmates seeking protective custody?*

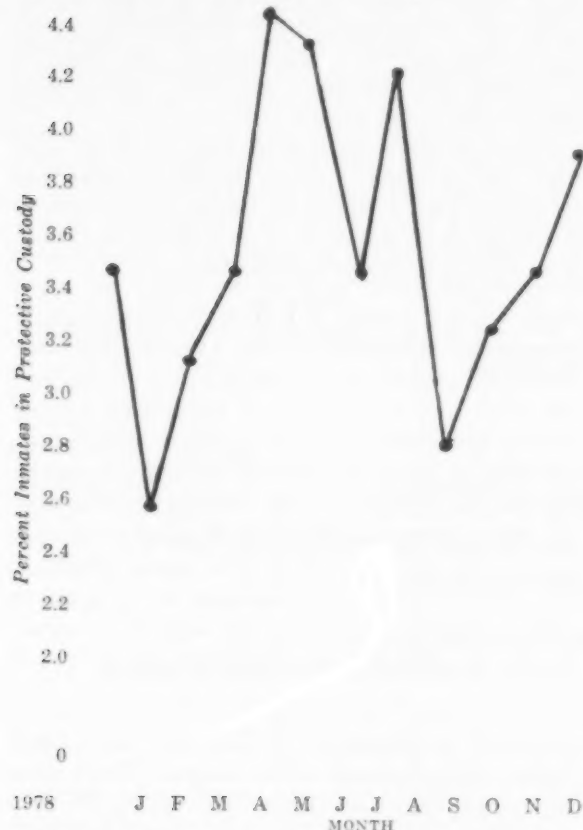
In every prison system there are a number of inmates who for a variety of real or imagined reasons feel they cannot live in the general prisoner population. Such individuals seek protective custody to shield them from contact with other inmates.

It was hoped that by developing a system which consistently assigned similar kinds of prisoners to the same facility, that those living there would feel less threatened by their fellow inmates. The positive consequence would be that these people would not voluntarily confine themselves in more restrictive protective custody and therefore be able to participate to a greater extent in potentially helpful programs.

Figure 1 shows the percentage of inmates in protective custody at a Western region S/L-5 institution during the year 1978. The percent of S/L-5 inmates in the facility's population rose from 1.5 percent in January to 15.4 percent in December. As the sine-like curve shows, the per-

cent of inmates in protective custody did not follow the hoped for slope downward.

FIGURE I—Percent Lompoc Inmates in Protective Custody
(Average N = 1082)



The answer to question four, is: no. The new security designation system has not reduced the number of inmates in protective custody.

(5) *Have "preferential transfers" between institutions been eliminated?*

Over the years many correctional systems build up informal arrangements between certain institutions. That is, the warden at facility "A" will take transfers from warden "B's" institution (and vice versa) but for some reason inmates from institution "X" never seem to get accepted in either "A" or "B."

The designers of the new designation system saw this as detrimental. Not only are inmates being treated unequally, but such schemes may

prevent an individual from being assigned to the most appropriate facility.

By new policy, wardens no longer have transfer authority. While the institution and its warden may recommend a transfer, the final authority to initiate such action rests with the appropriate Regional Office and its Designation Officer.³

Consequently, under the new system the opportunity for "preferential transfers" has been eliminated; and question five can be answered: yes.

(6) *Is better use being made of available resources?*

Another of the hopes that the designers of the new designation system had was that by approaching the inmate assignment process in a more consistent and rational fashion, it would permit identifying where available resources were actually needed. For example, at the time the Bureau's population soared above its physical bed capacity, many managers thought that more, secure-beds were needed. Indeed there were preliminary plans to request funds for another level six facility. The new approach enabled the Bureau's Executive Staff to better analyze the system's needs. As a consequence, additional minimum security beds were sought. These are more easily found and less expensive to build. It is estimated that the cost of constructing one secure bed is \$39,000; each minimum security bed costs \$13,000. In terms of a 500-bed facility, use of the new system would result in a savings of over \$1 million dollars per institution.

Additionally, current planning in the Bureau is beginning to look at resource allocation (staff positions, funding) in terms of types of institutions. For example, the staffing pattern for a security level one institution might be quite different than for a security level four.

Thus, the answer to question six, seems to be: yes. The new designation system has already resulted in better utilization of available resources and this is likely to continue in the future.

Conclusion

In terms of six assessment criteria, it would appear that the new designation system has demonstrated success in five areas: less secure, appropriate confinement; better balance; fewer transfers; elimination of "preferential transfers"; and better use of resources. It failed, thus far, to reduce the number of inmates in protective custody.

³ It was anticipated that this change in policy would bring about much dissatisfaction since the wardens were being asked to give up some of their former authority. Their response was that they would support the new system provided it had integrity, since under the old system "all they really had was begging authority!"

Several other advantages of the new procedure have yet to be mentioned. One of these concerns inmate complaints and the elimination of a possible source of inmate litigation. The existence of a designation system provides documentation for the decisions that staff are required to make in order for the Federal Prison System to function. Should an inmate challenge a decision, the system provides a means for explaining the bases for the choice and serves to refresh memories about past events.

Additionally, having a consistent, systematic method for making designations affords management a powerful tool for altering problem situations when they arise. An example of this occurred at one of the Western region camp facilities. It became apparent that, unlike other

prisoners, when certain illegal aliens get closer to a release date they become more of an escape risk—they do not want to be sent back to Mexico. The consistent procedures of the new security designation system enabled the problem to be corrected by changing the "weight" given to specific factors. As a consequence, the camp's population changed in 1 year from 56 percent illegal alien to 28 percent.

This highlights the final advantage of any system; namely, that such an approach gives the decisionmakers a means to fine-tune their operation. It suggests the truth in the statement: Something can be done about everything.

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Pioneers in Prison

Inmates and Administrators at Alderson, the Federal Reformatory for Women:
1925-1930, the Founding Years*

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"Alderson: That Is a Sort of Ladies' Seminary?"

WOMEN convicted of Federal crimes were first housed together in 1927 at the newly constructed Federal Industrial Institution for Women in Alderson, West Virginia. Until that time, the Department of Justice had contracted to board Federal women convicts at state facilities like the House of Corrections in Rutland, Vermont, or the Kentucky State Reformatory in Frankfort. When Alderson was completed in 1930, at the cost of \$2.5 million, it consisted of 500 acres of disconnected Georgian-style buildings

arranged in horseshoe pattern on two slopes called the upper and lower campus. The prison began operations April 30, 1927, when the first inmates arrived, although construction would continue for some time. By the official opening day, November 24, 1928, over 200 inmates and staff lived on the grounds. Alderson was the sole Federal women's prison until 1955, servicing women convicted of Federal and District of Columbia crimes if they were over 18 and had been sentenced to more than 1 year.¹

In the beginning Alderson was admired and applauded for several reasons: the absence of a massive surrounding wall or heavily armed guards; extensive farming and physical activities; an individualized classification system; an inmate self-governing system; the promotion of education and work classes such as literacy, stenography, typing, sewing—all that, plus few escapes

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¹ During World War II, women were also briefly housed at the Federal Reformatory in Seagoville, Texas (August 28, 1940, to June 25, 1942). Bureau of Prisons, *Statistical Report, Fiscal Year 1975* (Washington, D.C.: U.S. Department of Justice, Federal Bureau of Prisons, 1977), pp. 115-119; Mary Belle Harris, *I Knew Them in Prison* (Viking Press, 1936), pp. 245-403; Claudine SchWEBER, "Mary Belle Harris," a bibliographic essay for the forthcoming volume of *Notable American Women* (Harvard University Press, 1980).

or serious disciplinary problems. These contributed to Alderson's image as a model institution which resembled a fashionable girls' boarding school.

Alderson's early reputation as a "Ladies' Seminary"² was largely due to the work of Dr. Mary Belle Harris, its first superintendent.³ Harris was appointed in 1925 and remained the boss until her retirement in 1941 at the age of 66. Prison administration was Mary Harris' second career. Until 1914 when she was 40, Harris had been a scholar and teacher of Latin and the Classics. (Ph.D. in Sanskrit and Indo-European Comparative Philology, University of Chicago, 1900). In 1914, she was appointed warden of the Women's Workhouse on Blackwell's Island in New York City by Corrections Commissioner Katherine Bement Davis, a University of Chicago classmate. Harris' philosophy about prisons and their administration corresponded with the ideas of contemporary penal reformers, particularly those involved with women. They believed in scientific classification; in programming geared to the individual's needs and talents; in education and training in an employable field; in exercise and outdoor activities for physical and mental discipline; in an indeterminate sentence to permit

the re-education process to occur at the inmate's own pace. Harris and others also believed that women's criminality was largely due to their economic or psychological dependence, particularly upon men. Thus, she wanted Alderson to be a place where women would be educated and active while incarcerated, trained to become good citizens and self-supporting individuals.⁴ Harris was equally confident about the importance of operating with a predominantly female staff.⁵ The fears of some Washington bureaucrats who "did not believe men would be willing to work under the direction of women,"⁶ she dismissed, pointing out that she had never encountered problems in the past. At Alderson, male staff were forewarned that "anyone who wished to work here would have to accept the fact that he would be taking orders from women." The result? "We had no difficulty on that score."⁷

Mary Harris was a tough and powerful administrator, in contrast with many of her colleagues at state prisons. She used a variety of weapons—Alderson's reputation and its unique position as the only Federal prison that was "a 'cause' before it was established";⁸ supporters in women's groups and the Justice Department; members of the theoretically passive Alderson Advisory Board; representatives in Congress—to fight, with considerable success, incursions on her autonomy by the Bureau of Prisons,⁹ which was newly created in 1930 as the central agency responsible for all Federal prisoners.¹⁰ (I also suspect that Harris was not pleased to be getting orders, especially about running a women's prison, from new superiors who were all men.¹¹)

The recent discovery of the prisoners' records and the Harris papers permits the first examination of who the inmates were and what it meant to do time at Alderson in the early, halcyon days. This article begins the process¹² with a look at the Federal Industrial Institution for Women during the first, founding, years of operation, 1925-1930.

I. The Inmates and Their Crimes¹³

The commitment to creating a pleasant, supportive, productive community of women came in part from the reformers' belief that most women were not *intentionally* criminal, but were *lured* into such activity, "put up to it by (a man, usually) the husband or sweetheart."¹⁴ That is, women were redeemable, but not responsible offenders.

² Representative Kopp asked Captain O'Connor, Superintendent of Federal Prisons, "Alderson: That is a sort of 'Ladies' Seminary?' during the 1929 appropriation hearings. *Hearings Before the Special Committee on Federal Penal and Reformatory Institutions, January 7 to 15, 1929*, U.S. House of Representatives. Other glowing comments are in *The Alderson Saga*, a scrapbook of news articles, legislation, photographs and accompanying text on the founding of the prison. It begins about 1923 and ends about 1935. The scrapbook is at the Warden's Office, Federal Correctional Institution at Alderson, West Virginia.

³ The work of other women was also critical, although not on such a daily and long-term basis as Harris'. Most notable were Mabel Walker Willebrandt, Assistant Attorney General, U.S. Department of Justice, and Julia K. Jaffray, Executive Secretary of the National Committee on Prisons and Prison Labor.

⁴ Claudine SchWeber, "Mary Belle Harris," cited in note 1.

⁵ See Appendix I for the list of Alderson's first staff.

⁶ Harris, *I Knew Them in Prison*, p. 280.

⁷ *Ibid.*, p. 281.

⁸ Harris to Sanford Bates, Director, Bureau of Prisons (March 11, 1932). National Archives, Record Group 129 (Bureau of Prisons), Box 658, file No. 4-9-0.

⁹ For example, when the Bureau of Prisons ordered an increase in the garment factory output which would have required that the inmates' assignments last longer than half a day, Harris called upon supporters to assist her in forcing the Bureau to compromise (see footnote No. 10). When I talked with James Bennett (Assistant Director and Director of the Bureau of Prisons 1930-1963) in 1976, he vividly remembered Mary Harris and her continual attempts to end-run his directives.

¹⁰ Correspondence between Harris, Bates, James Bennett, Mabel Willebrandt, Julia Jaffray, etc. (November 4, 1930-December 21, 1932). U.S. Archives Bureau of Prisons, Record Group No. 129, Box 658, file No. 4-9-0.

¹¹ SchWeber, "Mary Belle Harris," cited in note 1.

¹² This article is part of a larger project about the impact of Federal crime policies on women during Harris' tenure, 1925-1941. That is, what did laws such as the Harrison, Volstead, or Mann Act mean in terms of which women were arrested and imprisoned. How does this reality correspond to the legislative intent? In which ways did the Alderson women, both administrators and inmates, seek to influence or cope with such policies?

¹³ The inmate statistics represent a 50 percent sample of the 300 women admitted to Alderson between 30 April 1927 and 31 December 1928.

¹⁴ Harris as quoted by Nell Ray Clark, "Why So Many Women in Crime? Dr. Mary B. Harris, Head of the New Federal Industrial Farm for Women in West Virginia, Discusses Increase of 400 Percent in the Number of Female Offenders in the Last Ten Years," no source, no date (estimated 1926) in *The Alderson Saga*.

The viability of this man-behind-the-woman-criminal thesis was explored by examining codefendant data.¹⁵ While many women (29 percent) did have male partners with whom they were romantically involved (in eight of ten cases), the reformers' conclusion that women were unknowingly lured into illegal activity, usually motivated by a frivolous, romantic vision of being "The Queen of the Black Hand" or "The Bobbed-Haired Bandit" of a (male) gang" is not supported. Instead, most women appear to have been involved in crime for various reasons, as the following cases indicate (names are fictitious):

(1) Alice, a 17-year old girl, left home because her father frequently beat her, her mother, and several of the 13 younger children. She found work and a boyfriend in the city. Her father found them and had them arrested. Both were convicted of Mann Act violations.¹⁶

(2) Bertha was unable to return to work following the birth of her seventh child because of an illness. Her husband was despondent: How would they pay the rising rent, food, doctor bills? Following the example of a friend, the husband pasted a ZERO next to the ONE on the dollar bill—and sent Bertha out to get change. She was immediately caught. Both were convicted of counterfeiting violations.

(3) Carole needed more money for clothes and fun than her family could afford. A girlfriend suggested that Carole join her in a mail-order bride scheme. Unfortunately, one of the men who had sent Carole

money to come west would not take no for an answer and complained to the Federal authorities. Carole was convicted of mail fraud.

(4) The most common situation: a woman arrested with her husband or boyfriend for the use, possession, or sale of narcotics.

The point is that contrary to the reformers' theory, the presence of a man in an inmate's life is *not* sufficient evidence to conclude that women were passive partners, unmotivated by circumstance, or unaware that their actions were illegal. In fact, the activity that accounted for the greatest number of prisoners was involvement with narcotics, clearly an illegal activity. I suggest that the *critical* factor which accounted for the "400 Percent Increase" of women offenders in this period,¹⁷ is not individual personal weakness or dependence on a man, but a new definition of criminality, particularly for drug users.

When Alderson was built, it was with the understanding that the staff would work with drug addicts, the majority of Federal female offenders.¹⁸ In the 1927-1928 period, 58 percent of the inmates had drug convictions. Drug violators far exceeded all other convictions: white collar, 11 percent; Prohibition, 9 percent; Mann Act, Immigration, Dyer Act each were 4 percent or less.¹⁹ Drug users excluded no one from membership: women from the country and city, young and old, married or not, with children and without. Furthermore, unlike white collar inmates, all of whom were white, or the Immigration prisoners, who were Mexican, drug violators included members of every race: 75 percent white; 22 percent black; 2 percent chicana. These figures correspond roughly to the racial distribution of the Alderson population: 70 percent white; 24 percent black; 5 percent chicana; 1 percent other.

How can the presence of so many drug offenders be explained? In the 1920's two major reasons were recognized: physicians, and the Harrison Act of 1914.²⁰ Doctors seem to have prescribed morphine for a variety of women's ailments ranging from very serious operations and accidents to menstrual cramps and headaches. Although it was possible to have become a self-medicated addict, via common curealls such as elixirs of opium or laudanum, before the narcotic restrictions of 1914, the largest number of inmate-addicts attributed their first contact with drugs to a doctor (43 percent). In second place as a drug source were the inmate's friends (27 percent).²¹ Were doctors supporting the habits ac-

¹⁵ Note on the use of codefendant data: Although the absence of a codefendant does not guarantee that the inmate acted alone, the presence of such a person indicates that there was a partner. Fifty-eight women (39 percent) stated that they were arrested with a codefendant; 16 had had female codefendants; 44 had had male codefendants; 4 had had male and female colleagues. Obviously these numbers are too small for any conclusions.

¹⁶ In 1932, the U.S. Supreme Court ruled that the Mann Act could not be used to prosecute the victim, i.e., Alice. *Gebardi, et al. v. United States*, 287 U.S. 112.

¹⁷ Clark at note 14.

¹⁸ Harris, *I Knew Them in Prison*, cited at note 1; Claudine Sch Weber, "The Alderson Movement: Women and Prisons and Prison Reform in the Early Twentieth Century," paper presented at the Berkshire Conference on the History of Women (June 1976); Testimony of Mabel Willebrandt, Assistant Attorney General at Hearings Before the House Committee on Appropriations, Second Deficiency Appropriation Bill, Federal Industrial Institution for Women, February 11, 1925.

The Federal laws which brought most women to Alderson were:

—The Harrison Act/The Narcotic Drug Act of 1914: 38 Stat 785 (December 17, 1914); 40 Stat 1139-33 (February 24, 1919); 42 Stat 298-301 (November 23, 1924).
—The Mann Act/The White Slave Traffic Act: 36 Stat 825-7 (June 25, 1910).
—The Dyer Act/The National Motor Vehicle Theft Act of 1919: 41 Stat 324 (October 29, 1919).
—Prohibition. The U.S. Constitution, 18th Amendment, effective January, 1919, and the Volstead Act, 41 Stat 305 (October 28, 1919).
—Immigration Act of February 5, 1917.
—White Collar Offenses, covered by a variety of legislation such as embezzlement, postal fraud, larceny. See Title 18, sec. 5209 (R.S.V.S.), Title 18, U.S.C., sec. 215, 216, 217, 194, 225.

¹⁹ The remaining 11 percent were women violating District of Columbia laws.

²⁰ Harris, *I Knew Them in Prison*, at note 1, p. 330; James V. Bennett, "The Federal Penal and Correctional Problem, 1929," Appendix I in *Hearings Before the Subcommittee on National Penitentiaries of the Committee on the Judiciary*, January 22, 1964, pp. 108-116, 121-125, 133.

²¹ Hugh Teitelbaum, *Drug Abuse in the United States*, M.A. thesis in Criminal Justice, Northeastern University, 1974; Dan Waldorf, Martin Orlick, and Craig Reinhardt, *Morphine Maintenance: The Shreeport Clinic, 1918-1925* (Washington, D.C., The Drug Abuse Council, Inc., 1974); Harris, *I Knew Them in Prison*, pp. 319-320.

Drug violators are referred to as addicts because only 6 women claimed they were dealers interested solely in money. The rest were users who obtained narcotics in various ways, including making the rounds of doctors' offices, stealing prescription pads, petty dealing to support a habit.

quired after an operation or were they medicating women who complained of headaches? That is, was morphine—the drug used by 90 percent—the valium of the 1900's? Subsequent research will analyse more precisely the impact of early 20th century medical practices²² on women prisoners.

The Harrison Narcotic Act of 1914 (amended 1919, 1924) made a significant contribution to the rising crime rate by outlawing the use, sale, possession, etc., of narcotics—opium, coca leaves, and their derivatives, morphine and heroin—making violation punishable by imprisonment and fine.²³ Although medical use of narcotics was originally protected, a series of Supreme Court rulings between 1916 and 1922 resulted in the shift of narcotics distribution control from the doctors to the Federal Government. These cases upheld the use of the Harrison Act, although a revenue measure, to prosecute and convict doctors who had prescribed narcotics to maintain addicts but not to cure them.²⁴ Doctors became afraid to treat any addicts, including longstanding patients with chronic illnesses, because the courts might decide, as they did in Dr. Behrman's case, that the dosage, even when prescribed in "good faith," was not small enough to be considered an attempt to cure. Although the government subsequently opened clinics in many cities, the net result was unchanged: The government had cut off the addicts' legitimate supply and placed the narcotics user in a criminal class.²⁵

Since over 50 percent of Alderson's inmates were drug users, we can see that classifying

them as criminals in 1915 contributed substantially to the female crime wave by the 1920's. Cynics might add that Alderson owes its early existence to these inmates.

II. Life at Alderson

It is unlikely that penal reformers of the 1920's would agree, or even be concerned with my contention that rising women's crime rates were largely attributable to new definitions of criminality. Instead, at Alderson they spoke about investing women with an inner strength to resist and reject any temptations to return to the criminal life.

Drug addiction, the criminal disease which brought most women to Federal prison, was viewed as a weakness of the will, and Harris and her staff welcomed the opportunity to help women rid themselves of this curse forever. "Immediate withdrawal under competent medical supervision" was the usual treatment. Former addicts assisted the medical staff and encouraged the patient by recalling their own triumphs. The belief was that once the addict realized both that "the fight is on . . . there is no evading it" and that she was among "friends" who believed in her success, any resistance would dissolve and the cure would begin.²⁶ The ex-addict was gradually introduced to the institution's activities, beginning with a cottage assignment and a few hours of light outdoor work. The outdoor activity, often a farm assignment, was increased until the doctor recommended a normal schedule, usually after 3 months. Thereafter, the newcomer probably worked at a job similar to the one she had held outside,²⁷ and similarly racially segregated.²⁸

The inmate's progress was reviewed at the quarterly classification meetings, sooner if a problem developed. But regardless of her behavior, institutional policy prevented a drug violator from being paroled before she had served 2 years. This policy meant that very few inmates were released on parole because 75 percent of the women in the late 1920's received sentences of less than 3 years. Most women (74 percent) left Alderson at the expiration of their good time; that is, when the institution was legally required to let them out.²⁹ Since the ultimate reward for good behavior—parole—was unavailable to most women, other methods were used to encourage compliance.

In addition to work, school and outdoor assign-

²² The critical work on American drug policies in the early 20th century is David F. Musto, *The American Disease* (New Haven: Yale University Press, 1973).

²³ The Narcotic Act of 1914.

²⁴ *U.S. v. J. N. Fugy*, 241 U.S. 394 (1919); *Webb v. U.S.*, 249 U.S. 96 (1919); *U.S. v. Doremus*, 249 U.S. 86 (1919); *U.S. v. Behrman*, 258 U.S. 280 (1922).

²⁵ Teitelbaum at note 21; Waldorf, Orlick, and Reinarmen at note 21; Bennett at note 20, p. 109.

²⁶ Harris, *I Knew Them in Prison*, p. 311.

²⁷ See Appendix II for a comparison of the jobs inmates held before and during incarceration.

²⁸ The jobs at Alderson, especially the garment factory, coincided with those recommended for Women's Institutions in a 1927 report by the Committee on the Care and Training of Delinquent Women and Girls of the National Committee on Prisons and Prison Labor. *Industries for Correctional Institutions for Women: Report of a Survey* (New York, published by the Committee, 1927).

Racial segregation encompassed most activities: cottage assignments, sports teams, choir, work and school, inmate supervisors, etc. Harris *I Knew Them in Prison*, pp. 245-403. Apparently the Federal Bureau of Prisons did not forbid segregation in its institutions until after the 1964 Brown decision.

²⁹ RELEASE METHOD OF ALDERSON WOMEN INMATES
144 cases (six, no information)

Parole	22% (No. 31)
Good time finished	74% (No. 106)
Transferred	2% (No. 3)
Other	2% (No. 4)

Alderson's parole policy was frequently stated by Dr. Harris in letters she wrote to inmate families, attorneys, friends, and Department of Justice personnel.

Two other policies probably contributed to the low parole rate (22%): (1) No one with a detainer was eligible for parole; (2) Anyone unable to pay her fine had to spend an additional 30 days before signing a pauper's oath. "Application for Release of Poor Convict for Discharge." *Revised Statutes of the United States*, section 1042.

ments, the success of the drug treatment program depended upon "vigilance and still more vigilance"³⁰ against possible contraband: All mail was censored; packages were not accepted, even at Christmas; assignments were organized so that the absence of an inmate from a designated place could be detected immediately; inmates on probation could move about only when escorted by the staff or a cottage electorate member.³¹ Thus, despite intentions that rehabilitated addicts would be living testimony to the triumph of a new will, even at Alderson these triumphs could only be secured by constant vigilance. Why then were the women expected to survive outside, without such watchdogging?

Perhaps the expectation stemmed from confidence in the power of experiences such as the self-governing clubs to create new, reborn, citizens. Cooperative Clubs were intended as an experience in self-control, self-government, and citizenship.³² A club existed in each cottage,³³ and members were elected to electorate, committee, or council status. Membership was strongly encouraged by Dr. Harris, and by the granting of additional privileges such as three outgoing letters per week or chevron badges for each term of service. Members were responsible for cottage management in such matters as fire drills, for escorting probationers on campus, and for policing behavior. The following report describes a typical meeting:

A meeting . . . was called September 30th for the purpose of voting for M and S to be reinstated in their former places. Both having been suspended from the Committee and Council for one month for unbecoming behavior (vote unanimous). PB was given a vote for the Electorate to take effect two weeks from date under conditions that she cooperate fully—her attitude not having been in past week just as it should have been (vote unanimous).

When severe problems did arise, Harris would

call upon the councils and committees for help. Although inmate organizations were opposed by some prison administrators and officials, Harris remained aggressive in her support:

Whenever we have had a situation which was . . . detrimental to the morale of the institution, this . . . body of inmate representatives has thrown its weight on the side of law and order and proved its efficiency.³⁴

The potential for abuse among inmates was discussed at Alderson by only one person, an inmate. She wrote to a friend that she liked the institution a lot, except for the club system:

You are supposed . . . to report any irregularity on the part of (other) girls and some of the girls who belong to this Committee . . . abuse their privileges by using more authority than they should . . . And having never been in an institution where some of the inmates were given the right to rule others, I can't exactly get reconciled to it—the worst of it all is that some of the Committee group are far from being perfect enough to occupy the position they do, and I think they should get right themselves before they attempt to make the other fellow right.

Whether the self-governing experience changed values and behavior remains to be determined. However, it seems likely that the work of these clubs in governing behavior was responsible for the relatively small number of disciplinary problems requiring staff action (only 20 percent). Such action—usually in the form of curtailed writing or commissary privileges, loss of status, or restricted mobility—was most frequently administered for two offenses: smoking (lighting up, aiding and abetting, being in the vicinity of) and having contact with the camp men.³⁵ The appearance of a co-ed institution was, of course, a mirage, for interaction was strictly forbidden. Regardless of whether they had been passing notes, actually meeting, or not reporting such activity by others, violators were severely punished with extended seclusion, loss of good time, or transfer.³⁶

Alderson's environment and activities resulted from the reformer's belief that the woman's criminality was an individual problem, rather than a combination of decisions by the woman, the law enforcement community, and the legislatures. Ignoring the external factors, the institution focused on changing the person: The lovely surroundings, the courses, the clubs, and the discipline were geared towards turning ostensibly weak-willed women into strong-willed individuals who would reject any pressures, especially from men, to break the law. The difficulty of this

³⁰ Harris, *I Knew Them in Prison*, p. 315.

³¹ *Ibid.*, pp. 316-319; Harris wrote: "I know that the subject of inmate organizations is still controversial, but I feel that . . . they are essential to a complete program for the rehabilitation of men and women who are to go back to society. They require understanding, direction, supervision, and stimulation on the part of the . . . staff: . . . they can be made the instrument for developing self-respect, self-motivation, and initiative in the right direction." P. 399.

³² *Ibid.*, pp. 393-401. The role of the Clubs as an experience in self-control and citizenship was clear (p. 344): "The purpose of [The Cooperative Clubs] is to afford a channel through which our determination to lead an upright life, here and now, may flow out to improve the life of our cottages, thence to the whole institution, and finally to the families and communities to which we hope to return . . ."

³³ Constitution of the Cooperative Clubs, adopted February 22, 1928, and approved by the U.S. Attorney General.

³⁴ The cottage managerial arrangement is very similar to the unit management system presently used in many Federal prisons.

³⁵ Harris, p. 204.

³⁶ Camp men were 200 male inmates shipped from Atlanta and Leavenworth prisons in 1926 to build roads and assist with ground work and repairs.

³⁷ Smoking and contact with camp men accounted for 80 percent of the staff administered discipline in this period. The men left in about 1930, and the smoking ban was lifted in 1937.

approach was that the skills and talents which made for success at Alderson were too often unrelated to the demands of women's lives outside or to the factors which resulted in criminal behavior.³⁷

Conclusion

The years 1925-1930 were pioneering ones at Alderson. When Dr. Harris was appointed in 1925, there were no buildings, no staff, and no inmates—just a congressional mandate, a location, and the first appropriation for one million dollars. Thus, Harris and the staff were able to closely supervise the planning, construction, and furnishing of the institution (including the installation of a baby-grand piano). When the first inmates arrived in April of 1927 they participated in the grounds work, maintenance chores, and self-governing activities necessary to an institution that was only half finished and half staffed. Unchallenged by outsiders, the early settlers—both administrators and inmates—cooperated in developing the reformatory movement's vision of the best possible women's prison.

Nonetheless, regardless of the beautiful surroundings, the many activities, or the comparative freedom and responsibility; despite the loving letters from some Alderson graduates or the accolades of naive visitors who asked, "Don't they all want to stay here when their time is up?" neither the administrators nor the inmates were fooled. They knew that "no matter how pleasant a place is, loss of liberty takes away its charm,"³⁸ and that "freedom would be sweeter."³⁹ All they knew was that Alderson was a women's prison and not a ladies' seminary.

APPENDIX I

ALDERSON'S FIRST STAFF

Slowly, a staff organization was being formed and by the time the first inmates were received the following employees had been appointed and entered on duty:

Dr. Mary B. Harris	Superintendent	Mar. 12, 1925
Mrs. Gertrude Johnson	Secretary	Oct. 20, 1925
Miss Viola Pruitt	Accountant	June 16, 1926

³⁷ While post-Alderson crime statistics are poor, many former residents wrote to Harris and the staff about their struggles with family, with the depression, with having a prison record; they asked advice about changing jobs, about starting a business, about finding reputable medical care. Discussion of these letters will appear in the subsequent analysis of Alderson in the 1930's, currently in progress.

³⁸ Harris, *Ibid.*, p. 386.

³⁹ Excerpt from an inmate's letter to a friend, July, 1927. The whole paragraph reads: "We certainly do have a nice time here to be in prison. No bars, or no walls, and we only have a key turned on us when we go to bed, and we each have a nice room, and our Superintendent and Dean of the girls (Helen Hironimus) tries to make us all happy, but, of course, our freedom would be sweeter."

Mrs. Johnson and Miss Pruitt remained on duty in the Washington office, with Dr. Harris commuting back and forth between Washington and Alderson. On duty at the institution were:

Miss Elizabeth Kates	Steward	April 26, 1926
Miss Anna Kester	Farm Manager	April 26, 1926
Mr. Steve Bostic	Farm Hand	Oct. 1, 1926
Mr. Silas Bostic	Farm Hand	Oct. 1, 1926
Miss Sallie Bailey	Clerk	Jan. 3, 1927
Mr. Alton Frye	Carpenter	Jan. 13, 1927
Mr. Percy Hullings	Laundry Foreman	Jan. 13, 1927
Miss Helen Hironimus	Record Clerk	Feb. 1, 1927
Mrs. Elizabeth Brenner	Housekeeping	Feb. 1, 1927
Mrs. Sally Cathcart	Warder	Feb. 1, 1927
Mr. Jasper N. Stancil	Warder, Head of Cottage	Feb. 1, 1927
Mrs. Catherine B. Jones	Engineer in Charge	Feb. 1, 1927
Mr. John Skelton	Teacher	Feb. 5, 1927
Miss Emma DeCorse	Farm Hand	Feb. 7, 1927
Mr. Robert Hillis	Ass't. Farm Manager	Feb. 19, 1927
Mr. George Crawford	Storekeeper	Mar. 1, 1927
Miss Kathryn Bass	Cook	Mar. 1, 1927
Mr. Abel C. Hamric	Prac. Nurse	Mar. 15, 1927
Mr. Alexander S. Robertson	Watchman	Mar. 15, 1927
Miss Dorothy P. Godfrey	Fireman	Mar. 20, 1927
Mr. Ellis P. Honaker	Ass't Supt.	April 1, 1927
Mr. Gordon R. Parker	Fireman	April 1, 1927
Mr. Thomas Neighbors	Fireman	April 1, 1927
Mr. George Taylor	Farm Hand	April 12, 1927
	Fireman	April 14, 1927

From this list, it can be seen that the boilerhouse was ready to function twenty-four hours per day and that work on the farm was going forward as rapidly as possible. Through the Department of Agriculture, a small herd had been assembled and during the winter months, shipments of heavy farm machinery were received and set up. By spring, the farm was taking shape and long rows of vegetables were breaking through the ground. SOURCE: *The Alderson Saga*, n.p., n.d. (c. 1925-1935?).

APPENDIX II

Alderson Residents April 30, 1927 to December 31, 1928

JOBS OF WOMEN INMATES BEFORE AND DURING INCARCERATION

Jobs Before Incarceration

Total Number of Working Women . . . 142*		
<i>Job</i>	<i>%</i>	<i>(#)</i>
Domestics	60%	(85)
maids		(64)
laundry		(15)
cook		(6)
Boarders/rooming		
house operator	23%	(33)
Regularly employed in an illegal		
occupation (prostitute, drugs)	15%	(21)
Waitress	13%	(18)

Factory and mill workers	12%	(17)
Clerks (dept. store, hotel)	11%	(16)
Health related (nurse, hospital attendants)	8%	(11)
Seamstress	6%	(9)
Farmworkers	6%	(8)
Other (postmistress, entertainers, beauty sculpture teacher, telephone & elevator operator, bank teller, bookkeeper)	19%	(26)

* 142 (95%) represents the number of women who worked at some time in their lives. The percentages do not total 100 since many women had held more than one job.

Jobs During Incarceration

Total Number of Working Women . . . 149*

Job	%	(#)
Domestics cleaning (Staff & institution) cooking/kitchen (Staff & institution) laundry Other domestics (pantry, linens, supt. house) Farm, Greenhouse & Outdoor work	92%	(137) (54) (47) (23) (13)
Waitress	37%	(55)
Office Clerk	19%	(29)
Medical Assistant (at hospital, or assisting doctor, dentist)	3%	(5)
Other	2%	(3)

* 149 represents all the women who worked (100 percent) because 1 case is no information. The percentages do not total 100 since most women were assigned to more than one job—quite often splitting a day between outdoor and indoor work.

The Federal Bureau of Prisons Celebrates Its 50th Anniversary

BEFORE the creation of the Federal Bureau of Prisons, May 14, 1930, prisons were overcrowded, staff untrained, and the seven existing Federal institutions run by politically appointed wardens who made their own policies and received funds directly from Congress. The establishment of the Bureau resulted in consistent correctional policy and the appointment as first director of Sanford Bates, former director of the Massachusetts Department of Corrections, signified that correctional administration had changed from political patronage to professional administration. His three successors, James V. Bennett (1937-1964), Myrl E. Alexander (1964-1970), and Norman A. Carlson (1970-), all came from the ranks of the career public service.

Federal Prison Industries was organized in 1934 to provide inmates with paid employment. New programs of classification, education, counseling, and job training were added; halfway houses were begun to ease the transition of inmates back into society and staff training

centers were opened at Dallas, Atlanta, and Denver. The old prisons such as Alcatraz, McNeil Island, and Atlanta are giving way to modern institutions with private rooms for inmates and without the concrete and iron cells characteristic of the past.

The history of the Bureau of Prisons is reflected in the following four articles which were prepared for the Bureau's 50th Anniversary Celebration in May. H. G. Moeller, former deputy director of the Bureau; Dr. Sherman R. Day, former assistant director; and Dr. W. Walter Menninger, member of the Board of Menninger Clinic and of the Advisory Board of the National Institute of Corrections, were among the principal speakers for the occasion. Dr. Menninger delivered the keynote address when the scheduled keynoter, Richard McGee of the American Justice Institute, was unable to attend due to transportation problems. These manuscripts look at the past and attempt to outline what lies ahead for corrections in the years to come.

Footnotes on the History of a Correctional Organization

The Federal Bureau of Prisons (1930-1980)

BY PROFESSOR H. G. MOELLER

Department of Social Work and Correctional Services, East Carolina University, Greenville, N.C.

DURING the weeks which have passed since it was decided that there should be an observance of the first 50 years of the history of the Federal Bureau of Prisons, there have been some who may have questioned why such an observance should be held. There are indeed many social institutions and governmental agencies which have a longer lifespan. In fact, there are some of us who were born before the Bureau was created. One of the clues to the reason for this observance lies in the inscription found in one of the Bureau's institutions: "All experience is an arch to build on." Another is in the theme of this meeting: "The First 50 Years—A Beginning." We use this occasion, then, to take a brief look at our past, as a learning experience. This, in the expectation that what we have learned, we and our successors will remember and use. For, we have been told, an individual or an agency, or a society which forgets its history is condemned to repeat its errors, failures and catastrophies.

As we have observed, in another paper prepared for this observance, "An organization, like an individual must have a capacity to grow, change, and respond to changes in its environment. It must accommodate to new and often more demanding tasks as it matures and to maintain throughout its existence a sense of direction and purpose." It must also have the capacity to respond constructively to crisis. For a correctional agency, crises often appear to be piled upon crises. Crises of institutional crowding, crises of inmate management, crises which are precipitated by scarcity of resources, crises resulting from political upheavals, and crises of wars and economic dislocations. Over the lifetime of the Bureau, and of us individually, crisis management has been a persistent and perhaps inevitable part of our existence. But the survival of crises has been the hallmark of human existence throughout its history and is an attribute of the capacity to grow.

Consider for a moment, the challenges which faced the Bureau on May 14, 1930: an "appalling" overcrowding of its five institutions, a "pitifully small" cadre of personnel with little or no professional education and training, a recent history of corruption of institutional officials, and gross inadequacies in basic inmate services. The agency also faced budgetary constraints which reflected the condition of a world plunged into an economic depression which was growing deeper daily and which would continue with little relief until the agency was at the threshold of a new crisis as the Nation became involved in World War II.

It was, therefore, in a climate of crisis that the fledgling agency set about to implement what the principal architect of the Bureau, James V. Bennett, had described in 1928 as "a plan—a correctional policy—broad, humane, and farsighted."

At the end of its first decade, the Bureau was in a position to look back upon a number of significant accomplishments. The foundations had been laid for the first professional correctional career service in this country. Innovative measures had been taken to reduce overcrowding through the invention of the concept of the open institutions. Inmate classification processes had been established. Staff training and development programs were created and the concept of promotion by merit adopted. Full employment of inmate workers had been achieved, largely through the imaginative design of a new approach to prison industries. A diversified system of correctional institutions had become a reality.

That these and other measures had been achieved is the function of the quality leadership which emerged at the outset. It was Sanford Bates, first director of the Bureau, who initially undertook the task of imposing a highly centralized control over the agency's activities; James V. Bennett who had a new vision of the role and purpose of institutional industrial enterprises; Austin H. McCormick and F. Lovell Bixby whose concern shaped programs of inmate welfare; W.

T. Hammack who undertook the building of the career service, and Dr. Justin K. Fuller who marshalled the resources of the U.S. Public Health Service as an integral part of the Bureau's system of inmate services. The collective intelligence of this group of modern correctional pioneers was to make the difference and to assure that the agency's foundations would be firm.

There are, of course, a number of ways in which the Bureau changed after the goals of its first decade of development had been achieved. In our view, however, these changes are best illustrated by changes in management philosophy; changes in the agency's relationship to the community; changes in its relationships with women and ethnic minorities and new approaches to self-evaluation and the assessment of program effectiveness. The advent of these changes are at the same time a reflection both of the stimulation which came from within the organization as well as the forces which operated in its larger environment.

The Bureau's orientation toward inmate management tended at the outset to be dominated by a paternalism which reflected the prevailing benevolent purpose orientation of all human service agencies during the first 50 years of the 20th century. The underlying assumption that the Agency and its employees invariably knew what was best for the offender was one which would yield slowly to the concept of individual rights and responsibilities. The early emphasis upon protection of the inmate from himself and from others was, however, deeply embedded in policies and regulations. A number of factors were eventually to shift the focus of management from inmate privileges to inmate rights and responsibilities. Probably the largest force for change was represented by the courts, but there is evidence that the Bureau perceived the need for change and responded to this need before the courts abandoned their traditional "hands-off" policy.

The "father-knows-best" approach to management also characterized the Bureau's relationship with its field employees, at least until the appointment of James V. Bennett as director. At this juncture there gradually emerged a system of consultative management; perhaps best exemplified by the use of wardens conferences as a device for the shaping of agency policy, and the circulation of policy issuances in the field for review and comment before they were issued. But the tension between the need to control and the need

to delegate was to persist during much of the agency's history.

From the outset, too, the Bureau recognized its responsibility to inform and educate its publics. During the Bennett administration, few, if any, opportunities to inform citizens, the courts, the Congress, or representatives of other agencies on the state of the art or about significant correctional issues were overlooked. The active efforts to establish a constituency to support correctional change contributed in no small part to the agency's success in obtaining legislative approval for the creation of the Federal Prison Industries Corporation; special treatment for Federal juvenile offenders; the Federal Youth Corrections Act; revision in Federal sentencing laws; the authorization for Federal Judicial Sentencing Institutes; the Federal Offender Rehabilitation Act which authorized work and study release programs, and the use of Community Treatment Centers; for provision of technical assistance to state and local agencies, and the creation of the National Institute of Corrections.

Over time, the Bureau, which like other correctional agencies avoided the involvement of "outsiders" in policy—or decisionmaking regarding inmate management, was to recognize that it could not live in splendid isolation. Interaction with organized constituencies who supported conscientious objectors during WWII prompted the agency to reexamine many of its practices. This established the groundwork for an expanding dialogue with other external interest groups which has continued to the present time.

Unquestionably, one of the Bureau's most significant relationships with the community came with its decision to extend the "limits of confinement" through the creation of alternatives to traditional imprisonment through the creation of the pre-release guidance centers in the early 1960's and subsequently the creation of programs of work-release, study-release, emergency furloughs, and community residential centers. In this period of correctional pioneering, the agency was in a position to exploit an idea whose time had come and again to demonstrate its capacity for creative innovation, and indeed for leadership in the field. The Bureau became an agency of and in the community and its constituencies grew.

There are numerous other evidences of the Bureau's interaction with external environmental change. There is, however, one case illustration of this response which deserves attention.

The United States was still at war when the agency first began to perceive the need to address problems in racial relations. At the Wardens Conference of 1944, Director Bennett took a strong position against discrimination against inmate minorities on work assignments, or anywhere else. Three years later Frank Loveland, at a similar meeting, outlined a detailed program for the improvement of race relations and observed "the improvement of racial relations must be based upon the premise that minority groups have rights and privileges equal to the majority"; and in 1954, Mr. Bennett made this statement, "There can be no question as to the policy of the Department of Justice or the policy of the government . . . we must go forward in integrating the races in all public institutions."

Discussions of the elimination of discrimination against minorities was not limited to matters relating to the inmate population. In 1948, Myrl E. Alexander in a discussion of personnel issues pointed to the fact that Black personnel were employed in only 10 institutions and constituted 1 percent of the total institutional complement. He urged active recruitment of minority employees. This theme was to appear with greater emphasis in the succeeding decades. Concern about discrimination against ethnic minorities was to be followed by a recognition of the need to eliminate the traditional discrimination against the employment of women personnel in institutions for male offenders. Here again Bureau practice began to take shape prior to the imposition of mandates by the Congress, and the courts, a development in which Mr. Alexander was to exercise strong leadership.

While the Bureau from its inception appreciated the importance of self-evaluation and organized efforts to conduct systematic program audits, it had, during much of its history, a limited capacity for research-based program evaluation. Program audit teams which functioned actively beginning in the 1940's served the agency well in closing the gaps which sometimes developed between articulated policy and management practice. Lack of funds for indepth analysis of program effectiveness was for many years a source of genuine frustration, however. Frank Loveland who was responsible for the direction of inmate services from 1937 to 1960, and some of his principal associates—Dr. Benjamin Frank, John Galvin, Dick Heaney, Mark Richmond, and others—spearheaded efforts to organize research with

resources available. It was Loveland who perceived the possibility of a systematic evaluation of the outcomes of the agency's program efforts which led to the landmark study conducted by Dr. Daniel Glaser and entitled, *The Effectiveness of a Prison and Parole System*. This project, funded by the Ford Foundation, was one of the largest ever funded in pre-LEAA days and gave impetus and support to what has become continuing and more sophisticated efforts at correctional program evaluation, particularly in the 1970's.

With the coming of the 1960's, the Bureau was influenced by changes in the climate of organizational management. Such concepts as program budgeting, management by objectives, multi-year planning, participative management, and decentralization of operating responsibility were to become part of the life style of the agency. Primary responsibility for operationalizing these concepts was assumed by Myrl E. Alexander during his tenure as director in the 1960's. While many of the forces which were to shape newer approaches to management were external to the Bureau, the task of making these viable for a correctional agency was readily accepted by Alexander and his associates. It was during his administration that wardens were, in his terms, to become identified as "assistant directors with field responsibilities." Under his leadership, also, reorganization of the Bureau was undertaken in response to the new operations mandates and responsibilities. Long-range planning was initiated; as was a broad-based involvement of agency personnel in budget justification and formulation. Personnel management policies and employee development programs were reinforced. Inmate programs and services were strengthened. The agency capacity for program evaluation was substantially expanded. Technical assistance to the states was reinforced. The first steps toward decentralization of agency functions were taken and new relationships, perhaps partnerships, between the Bureau and other human service agencies were forged.

All of these activities were to provide a foundation for the exciting developments which have occurred in the Bureau in the 1970's as the agency has continued to be a leader among the correctional agencies of the Nation and the world. But as our anniversary theme suggests all of these represent a prologue for the future.

What can be said of our past which is instruc-

tive for the future—the 1980's, the 1990's, and beyond?

First, among correctional agencies of the United States, the Bureau is unique. For 50 years it has enjoyed continuity of leadership. Unlike most other systems it has not been the victim of the vagaries of the winds of political change.

Continuity of leadership enabled the creation of a professionalized career organization dedicated to implementing what Mr. Bennett envisaged as "a plan—a correctional policy—broad, humane, and farsighted."

The agency has demonstrated a capacity to create, to innovate, and to respond constructively to societal change. It has accepted and responded to new expectations, new mandates and responsibilities. The Bureau has maintained a continuing commitment to the concept of human dignity and

to human service which were implicit in the Bennett design.

Throughout its history, the agency has been characterized by a quality of restiveness, impatience, and unwillingness to accept the status quo. Like any other organization it has made its quota of mistakes, and, indeed some of its missions have been aborted, but one likes to believe that it has shown the ability to learn from its failures as well as its successes. But perhaps what is most significant, this is an agency whose personnel cadres—at all levels—are loyal and dedicated to the principles for which it stands.

These then are some of the elements which have enabled the Bureau to grow in "wisdom and stature." If these are nurtured its continued development in its second half-century is assured.

People Make the Difference*

BY SHERMAN R. DAY, ED.D.

Dean, School of Education, Georgia State University, Atlanta

*Introduction by Norman A. Carlson, Director,
Federal Bureau of Prisons:*

WHEN Mr. Olin Blackwell was warden at Atlanta, he decided to put on a staff training program for his correctional officers. He invited Bill Megathlin and a young psychologist from Georgia State University to come to the institution and conduct that training. Sherm Day, that young psychologist, was assigned the responsibility of coming to the penitentiary in Atlanta and working with the line staff to develop one of the first training programs in interpersonal communications for the line staff in our institutions. I first met Sherm back in 1970 shortly after I became director of the Bureau; I was very impressed with his dedication, and particularly with his abilities. In 1972, I convinced him to take a year's sabbatical from the university and spend it with the Bureau of Prisons in Washington and help us refine our staff training center program that now exists in Atlanta, Denver, and Dallas. After that he returned to the university for a

year. In 1974, I convinced him again to come back to Washington and assume the position of assistant director of the Bureau and shortly thereafter the first director of the National Institute of Corrections, which as many of you retirees may not realize, is a part of the Bureau of Prisons. While he was in Washington, I rode with him in a car pool to and from work for an hour each way every day. We became very closely acquainted, not only in terms of our professional affiliation, but also as very close personal friends. I plan, in the few years I have left as director, to convince him to come back to the Bureau one more time. I've already made that overture and I hope I'm successful. I present to you now Dr. Sherman R. Day, dean of the College of Education, Georgia State University.

Dr. Day:

Mr. Carlson, Mr. Yeomans, and other platform guests—this is indeed an honor. I haven't been this scared since I was first in Olin Blackwell's office in 1967. The first thing he said to me was "sit your ass down, I'm running this institution." Those of you who know Blackie know that he was

* Keynote address at the Federal Bureau of Prisons 50th Anniversary Celebration, Springfield, Missouri, May 23, 1980.

capable of taking charge. I always thought he was going to hit me.

It's a pleasure to be with you tonight. As Mr. McCart mentioned, it's awesome to look over the many faces of people who have worked so diligently over the years in the Bureau of Prisons. The festivities of the day have certainly been worthwhile and stimulating, and if you haven't had just a little flutter in your heart, and if you haven't felt just a little bit of sentimentality, then you've just been retired too long, because it's been a grand day. The renewing of old acquaintances and friends is always a wonderful experience.

It was 13 years ago that I first stepped through the steel gates of Atlanta—some of you in the audience were among the first people I met in the Bureau of Prisons. I sat down with Warden Blackwell and Dr. Bill Megathlin to discuss the training program. Bill Megathlin was the young man who first proposed the interpersonal training for line staff to the Atlanta officials. At the time I didn't know much about line staff, but it was my initial experience in Atlanta that assisted me in developing a great appreciation for the work of the Bureau of Prisons, for the difficult and the dangerous job correctional workers contend with on a day to day basis. Working with the Atlanta staff convinced me that the stereotypes the general public hold about correctional workers are false. In my 13-year association with the Bureau of Prisons, as a consultant, employee and friend, I have gained great respect for correctional workers. I now know correctional workers to be solid persons, working to the best of their ability in very difficult circumstances.

I've tried to be an advocate for correctional workers and tell people of my experience throughout the country. Many people wondered why I left the Bureau of Prisons. The facts are that I was a little too old when I entered the system, and while I look very young, I got caught up in a retirement conflict with the Civil Service Commission and was denied the 50/20 retirement most Bureau of Prisons employees enjoy. When I found that the Civil Service Commission would not approve the 50/20 retirement, Norm Carlson stepped in personally to carry my case to the Attorney General and Deputy Attorney General. Mr. Carlson, along with Mr. Tyler, Deputy Attorney General, personally asked the head of the Civil Service Commission to change their decision. This effort on my behalf represents the kind of dedication that I've found throughout the Bureau.

Let me move away from the personal and deliver my message of tonight. The Bureau of Prisons is small in size by Federal standards, and neglected in many ways (except when you're trying to build a prison in a given community or there's a recent escape). However, the Bureau of Prisons is the best correctional agency in this country. Perhaps Carly Simon's song epitomizes my feelings about the Bureau of Prisons: "Nobody Does It Better, Baby, You're the Best."

I know it's getting late and I appreciate your patience. I have some points that I'd like to make to highlight my observations as to the reasons why the Bureau of Prisons is the best.

The Bureau has had a greater influence in this country than any of us dare imagine. As I visit the various states, cities, and counties, I find the influence of the Bureau of Prisons everywhere. While there always has been, and always will remain some split between the Federal Government and the local government, the contribution of the Bureau of Prisons is recognized nationally, and as Donald Yeomans mentioned, internationally.

The contribution of the Bureau of Prisons in the area of inmate programs is great. Educational/vocational programs, the self-help and the industrial programs are so common to the Bureau of Prisons that they are often taken for granted. However, these programs do not exist in every correctional system. Services to inmates such as liberal visiting, free flow of mail, and the use of telephones to enhance family relationships are major innovations in this country. The administrative remedy program, the specialized treatment units, the interface with the community, community treatment centers, furloughs, and work release are all innovations. These efforts either started, or at least had their major development in the Bureau of Prisons. One innovation that is very seldom mentioned in the literature, yet is frequently most appreciated by inmates, is the move toward providing privacy in housing. Recent institutional designs that give inmates individual rooms, cells or cubicles have been copied widely. Even penitentiaries, under the move to break down larger institutions into smaller units are providing much more privacy than ever before. Unit management is also a major innovation that has served inmates and facilitated their welfare.

The Bureau hasn't been innovative only for inmates, but for staff as well. The career service concept is one that is being emulated in many

states. It might surprise many of you to know that until recently few states have had a career service concept. The fact that people are able to move both laterally and upwardly in the Bureau is unique. No one is restricted from being an administrator in the Bureau of Prisons. Any person, regardless of previous education or specialty, can better his/her career within the Bureau of Prisons. Perhaps the Bureau epitomizes the Lincoln syndrome—that anybody can start at the entry level and rise to be the director. As we have heard earlier today, two of the four directors did just that.

Staff training is another important innovation. While many people give me credit for the recent training program, training has been a part of the Bureau for many years. In 1937, all new officers were given 4 months of training. Because of staff demands the present wardens discussed reducing the present training to 2 weeks. Some of you retirees ought to talk with them about the "good old days."

Perhaps the greatest contribution the Bureau has offered staff is the opportunity to serve people. Many outsiders do not consider corrections to be a people business. Nothing is farther from the truth. The opportunity to work face to face with human beings, assisting them to reshape and reclaim their lives is at the heart of corrections. It is a testimonial to the dedication of the line staff that they are willing and able to provide the attention necessary to assist offenders to better themselves while in custody. Make no mistake about it, many offenders have benefited personally from the programs and the people in the Bureau of Prisons.

The Bureau has contributed in many other ways. The Bureau's emphasis on research and evaluation, and the dedication to program accountability is noteworthy. Likewise, the emphasis on security, sanitation and work has been most commendable. Some persons would have us believe that security, sanitation, and work are the opposite of programs. I submit that self-improvement starts when people feel safe, when they feel secure, when they live in clean surroundings, when they feel that the government is in control, when they have opportunities to grow intellectually, physically, emotionally and spiritually. The condition of security, safety, cleanliness and lack of idleness form the climate necessary for individuals to rethink and readjust their future.

Recent efforts in two other areas deserve special

mention. The increased recruitment of minority employees and the increased opportunity for women in the service are commendable. At one time Alderson was the only institution where women could serve as wardens. Now there are many opportunities in the Bureau for women and minorities, including top management. In fact, if it weren't for the Bureau of Prisons, the Department of Justice might be under indictment for its EEO program. A second recent development, i.e., the Bureau's technical assistance to states and localities through the National Institute of Corrections, has improved correctional practice throughout the country.

I could name many other innovations, such as the programs at Morgantown, the co-correctional institutions and Butner. All have been on the cutting edge of correctional progress and have greatly influenced corrections throughout the nation and internationally.

But while many institutions and personnel were innovating, others were serving in institutions that were not as glamorous. And so we must also recognize the employees who worked in Atlanta, Leavenworth, Lewisburg, Terre Haute, Lompoc, Marion, Alderson, and Springfield to name only a few. These institutions made the innovations of the Butners and Morgantowns possible.

All of these accomplishments are notable, sizable, significant, and long lasting. The question might be asked: How did progress happen? The answer is that most progress resulted from changes in the values of society culminating in the Bureau of Prisons initiated reform. Some reform was forced, if you want to use that word, by court intervention through litigation. However, even when forced the Bureau has always responded in a professional manner—with grace, with professionalism and perhaps with the one word that best epitomizes the Bureau—with class. An agency can only respond with professionalism, grace, and class when its staff is professional and classy. It is the people that make the difference.

Let me start my tribute to the people of the Bureau of Prisons with the line staff. I would like to ask all of you who started as line staff in the Bureau to stand. (Attendees stand.) I'd like all of you who are proud that you started as line staff to remain standing. (Applause.) Perhaps you best characterize the real guts of this organization. While we tend to memorialize and characterize the organization by eulogizing those people at the top, there are literally thousands of Sam

Brittons, J. J. Clarks, Jim Hendersons, Roy Gerards, Chuck Hugheses, and others who are working in the institution at the line level. People who decide to remain at their home institutions, occupying positions of senior officers, caseworkers, teachers, foremen and a variety of other titles. I feel that line staff are the real heroes of the Federal Prison System.

I'd like to share with you an article that I wrote with Bill Megathlin in 1970. I didn't know a lot about corrections at that time. The article said: "It is the author's opinion that effective staff is the key to solving institutional problems and achieving institutional goals. Probably the most important and strategically placed individuals involved in the problem of reconstruction of attitudes are the cell block officers and shop instructors—those representatives of the internal community who come into face-to-face, daily contact with the inmates. How these individuals relate to the inmates determines in the long run not only the care and treatment policy of the institution, but that of the larger society as well. Consequently, any attempt to evaluate reconstruction within these walls must take careful and exhaustive analysis of the highly significant relationships between line staff and the inmates." We concluded the article by stating: "It now seems safe to suggest that inmates are more like the rest of us than they are different. And their need for relationships, positive relationships, from conforming adults like correctional officers, is extremely important in their development. Furthermore, it appears that the line staff officer can in a relatively short period, be trained to establish meaningful growth-producing relationships with inmates. From the evidence now accumulated, the training has demonstrated its ability to develop the skills necessary for effective relationships." And finally we made this observation: "Many of the trainees were effective people prior to the training."

I've had the opportunity in the past year to speak on four occasions to judges, state legislators, prosecutors, public defenders, and correctional administrators. My topic was the "Impact of Line Staff on Sentencing." There aren't very many people talking about line staff. I used a newspaper article of an interview with G. Gordon Liddy to illustrate the bad rap placed on line staff. Liddy characterized the line staff that he'd met in the Bureau of Prisons as "nitwits." I immediately responded to the interview, telling

the newspaper that he may be talking about wardens but not line staff. Certainly it was not the line staff that I have known. My characterization of line staff to the judges, legislators, etc., was that the line staff are decent, hard working, basic individuals. They are feeling, caring, and courageous. They are able to keep order through effective interpersonal communications. Line staff are the start and the finish of self-improvement programs. They provide both the climate in which change and order can take place, and the reinforcement for those who were interested in making the changes. I told the judges, legislators, etc., that line staff only desire safety and security for both inmates and staff. Contrary to popular opinion, they support programs and recognize their value. They want the government to be in control of institutions. They want to be consulted and advised on programs of institutions, and most of all they want those in their midst who are corrupt to be punished. These are the line staff that I've grown to know and respect. My appreciation goes out to the line staff of this organization. I join with your leaders in paying honor to you tonight—on the 50th anniversary of the Bureau of Prisons.

Let me turn to the leaders of the Bureau of Prisons; they're important as well. While the line staff must implement reform, the leadership must provide the initiation and reinforcement. I was impressed by an article I read recently about a television company recently purchased by a Japanese firm. Under previous leadership, inspectors found 1.4 defects in every set that was sold. The new leadership, within 1 year, had reduced the defects to .04 per set. The major reason for the reduction was the value that the new management placed on their staff. They involve the staff, they provide the staff the opportunity for ownership and they demand excellence. These factors have also epitomized the Bureau of Prisons leadership. I salute the leadership of the Bureau of Prisons, especially, Sanford Bates, James V. Bennett, Myrl Early Alexander, and Norman Albert Carlson.

Behind these great men are shadow leaders, seldom seen but of great influence. I also salute on the stand tonight the shadow leaders of the Bureau symbolized by Lee Bennett and Pat Carlson. These leaders make many critical decisions. One great penologist made this observation: "The reason he was so damned authoritarian is he never got to make a decision after 4:30." I don't

remember which one it was, but it was one of the great penologists sitting on my left. We salute tonight the families of the staff and leadership that has given so much to this organization.

The leadership has provided the stability and policy which has resulted in the evenness of practice throughout the system. Bureau administrators have been supportive of staff, as well as being creative and innovative. The Bureau of Prisons has not become a great agency by luck but by hard work from its leaders and staff.

Tonight we celebrate 50 years of existence. That's not a lot of years by most standards, as our neighbors from Canada have reminded us. As I look over the audience, there's far more people here who were born previous to the formation of the Bureau of Prisons than since the Bureau was created. We celebrate the first step in the growth and development of a major organization. Yogi Berra, a great philosopher, once said, "The game is not over until it's over." So as we celebrate the past we also anticipate the future.

We celebrate the past by recognizing the retirees. Very few of the retirees are wealthy, yet all are rich. Rich because they have a sense of belonging. They have many friends and associates throughout this great country. They are rich because they have pride in their organization. They maintain a feeling of ownership. They want to see their organization be successful. They have formed the base upon which the Bureau of Prisons is built. They've formed the traditions.

As we anticipate the future, we recognize the current leaders of the Bureau who are in the audience. We also recognize the staff who will view this celebration on video tape. You, the wardens, supervisors, and line staff have a great legacy to follow. Many great challenges lie ahead. I mentioned yesterday to the wardens that it is much easier to obtain excellence than to maintain excellence. While the Bureau of Prisons is a great organization, it is not a perfect organization. There are many things left to be accomplished. I challenge the current and new leadership to reflect on those factors that have made this organization great—the sense of family that's been spoken of today and tonight, the professionalism of the staff, the hard work and sacrifice that's been offered by the staff and their families and last, but not least, the pride in this organization.

In closing, allow me to be a little "preachy." Organizations are dying all around us. The public

has lost confidence in government and public agencies, including colleges and universities. To survive, we must keep a sense of proportion and balance. The only way to have integrity is to be honest. The only way to receive recognition is to have excellence. This organization is characterized by its striving to be better. Let me ask each of you to retain your optimism, your positiveness. Don't fall into the trap of being sour, cynical, or apathetic.

The other night before my wife and I retired, we watched the movie, "Deer Hunter." I don't know how many of you have ever seen this movie, but it's gruesome. It certainly doesn't leave one with an uplifted feeling. We turned on the 11 o'clock news and we found that the volcano in the northwest had erupted and killed several people. These events were immediately followed by a story on rioting in Miami. Sometimes it's not a very pleasant world to live in when you have to face the variety of problems that our society faces. It's easy to get cynical, sour, and pessimistic.

The only way to overcome these problems is to be an active participant, not a spectator. Sometimes we have to wait out problems. Another great penologist, on my right, once said, "This, too, shall pass." Perhaps you've heard that before. A former President of the United States, in his earlier days, wrote this thought: "It's not the critic who counts, not the man who points out how the strong man stumbled, or where the doer of deeds could have done better. The credit belongs to the man who's actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly, who errs and comes short again and again, because there is no effort without error and shortcoming. The man who does strive to do deeds, who knows the great enthusiasms, the great devotions, spends himself on the worthwhile causes, who at the best knows in the end the triumph of high achievement and who at the worst, if he fails, at least fails with daring, and courage, so that his place shall never be with those cold and timid souls who neither knew victory nor defeat."

My friends in the Bureau of Prisons, this is a great organization. In closing, let me share these personal feelings with you. I'm envious of the relationships you have with each other. I feel good in your presence and you bring out the best in me, and in each other. May the legacy of this organization continue in the future. God bless you all.

The Bureau of Prisons and the Public Health Service: A Partnership

BY W. WALTER MENNINGER, M.D.
Clinical Director, Topeka State Hospital

IT IS A PRIVILEGE for me to be here and to have the unexpected opportunity to share my thoughts with you on the occasion of the 50th anniversary celebration of the Bureau of Prisons. This gives me an opportunity to represent, in a sense, an important partner of the Bureau of Prisons in the past 50 years, the U.S. Public Health Service, for were it not for the U.S. Public Health Service, I would not have had the opportunity to serve with the Federal Prison Service and would not be with you this morning.

In collecting my thoughts about this occasion, I was reminded of the value of a celebration, of taking time out from the day-to-day crisis management, to which Gus Moeller referred, and to be able to put life and experience in a different perspective. It is worthwhile to periodically "stop the world" and take time to look both backwards and forwards.

In my youth I was not a great student of history, and I am aware that what our forebears have done is rarely appreciated in the exuberance of youth. Rather, there is a wish to demonstrate one's own capacity and knowledge, to prove that "I can do it," and to minimize the efforts of those who have gone before. This philosophy was demonstrated in the experience of some early Peace Corps volunteers in Columbia where an effort was made to help a new group profit from the experience of the earlier volunteers. However, the veteran group was reluctant to let the new volunteers make their own mistakes, and the new group did not really appreciate the guidance of their predecessors.

The last 50 years—and I make this observation when I have yet to reach my own 50th anniversary—have been a period of incredible technological development. I am very much aware of the changes which have occurred in my own field of medicine. Fifty years ago, there was only one disease-specific anti-microbial—an arsenical for the treatment of syphilis. Fifty years ago, we had not yet discovered and developed the sulfa drugs or antibiotics, or a host of other medications now commonly utilized in medical

practice. Obviously, this same advanced technology has influenced correctional operations and programs. That was evident to some extent in the exhibit photographs on display, and in the fact that these ceremonies are being video taped so that they can be shared throughout the system with staff who are unable to join us.

Yet, just as much has changed, there are still some things which are unchanged. In particular, I refer to the consumers of correctional services, the offenders who manifest characterological defects and behaviors today that are not particularly different from those evident 50 years ago. Similarly, as there were problems of overcrowding 50 years ago, there are still problems of overcrowding today, with more people referred for correctional care, in absolute numbers, than 50 years ago.

Today there is greater uncertainty about what really is to be done with offenders. There are changing expectations for corrections since we have gone through a phase where there was emphasis on "rehabilitation" and now returned to a period where it is more a matter of holding than expecting great change.

Some Comparisons of Mentally Ill and Offenders

In thinking about some of the changes, I was reminded of the evolution which has occurred in the treatment of the mentally ill. We have come a long way from the medieval attitude that the mentally ill are infested by devils which must be eliminated at any cost. There was a progression of treatment of these individuals through a period of just holding them, locking them up; on to a period of moral treatment where the goal was to provide clean and humane settings for their care, outside of the evil urban environment and in the clean, pure country air; and finally to an approach where there is an attempt to identify disordered psychology and biology and to design appropriate programs to correct those disorders. In general, with the mentally ill there is agree-

ment that there is a disorder which should be changed or corrected, but we must acknowledge that even today the techniques for bringing about that change are still imperfect.

With regard to the evolution of treatment of offenders, we have the history of punishment and retribution—an eye for an eye—and deterrence, on through a period of penitence, and on to a period where the effort of the correctional program was to bring about change through rehabilitation. Unfortunately, while offenders have done “bad” things, they do not often feel a mandate for change. Rather, they may sense that they will pay their debt to society, and that cleans the slate and frees them to go back to do whatever they want to do. More recently, there has been an increasing emphasis on providing humane care for offenders and opportunities to change where there is some readiness to change.

The problem in the treatment for offenders is the wish of a part of the public for vengeance and for simplistic solutions. In recent years, there has been considerable public frustration about the ability of corrections to correct, and many practitioners in the field have likewise become disillusioned with their ability to rehabilitate offenders. In the combined disappointment there has been a search for new answers. There is a reluctance to accept the fact that corrections is dealing with the most difficult of personality disorders, the most resistant to change, conditions which might be considered “cancers” of personality.

In reality, society must expect to devote disproportionate attention and energy to dealing with this recalcitrant minority. I am reminded of the cohort study by Wolfgang of 10,000 youngsters born in a given year in Philadelphia. You may recall that roughly 6 percent of these youngsters accounted for 50 to 75 percent of the police contacts for violent crimes. The response to this problem is complicated because the individuals concerned are bad, hurtful people who rarely evoke sympathy and who force us to attend to and control them. Therefore, we are reluctant to invest time, money and resources in their care any more than we have to. In addition, we will always have failures, and fairly consistently we are confronted with those failures, while we do not get credit for our success in the correctional process.

Corrections—A Special Challenge

You will recall the observation that one may measure a civilization by how it cares for its offenders. These days there is much citizen interest in corrections, but there is a reluctance of the ordinary citizen and voter to support the prison system except to the minimum necessary to put people away. This is reflected in the action of legislatures and the result has been to put prisons in the same situation that mental hospitals have been in; namely, to subject them to challenge and review in the courts which represent the conscience of society. This has forced a reassessment and a change in the operations in the mental hospitals, as evidenced by such landmark cases as *Wyatt v. Stickney*. It is of note perhaps that that case was originally stimulated not as an altruistic concern for the mental patients, but because staff were upset that the state was closing out jobs. Only when the staff's appeal to the court was held to be without foundation was the suit brought in the name of the affected patients.

It has been my privilege to participate on behalf of the Federal Bureau in several suits which have challenged Bureau activities, including what is now the landmark case of *Bell v. Wolfish* (a case which began as *Wolfish v. Levi*). You may be aware that the lower courts—the District Court and the Second Circuit Court of Appeals—held for the plaintiffs in that suit in their allegation of cruel and inhuman practices by the Bureau of Prisons in its modern New York Metropolitan Correctional Center. Although the U.S. Supreme Court disagreed and supported the practices of the Federal Bureau of Prisons as being constitutional, it is important to acknowledge that courts are ready to hold for certain standards which are more exacting than many prison systems now honor.

It is admirable that corrections itself has taken major steps toward establishing standards for prisons and for establishing a process for accreditation. Also admirable has been the move toward professionalization in corrections. In the past quarter century, a major development has been the commitment of academic institutions to provide training and research in this area, institutions such as Sam Houston in Texas, at Southern Illinois, at the University of Florida, at East Carolina, and many others. At the same time, the Federal Bureau of Prisons has taken a leader-

ship role in establishing training programs, with the foundation for current training established by Sherman Day when he joined the Bureau in 1972.

I have a special respect for the Federal Bureau of Prisons because of its readiness to seek outside consultation and assistance. In contrast to other agencies which zealously defend their turf and concepts, the Bureau of Prisons, under its directors over the past 50 years, has actively sought and used the consultation and advice of others. On two occasions, I have been an active part of that process: as a member of the Review Panel for the Medical Program of the Bureau of Prisons, convened at the request of Myrl Alexander in 1967; and on the Advisory Council on Prison Facilities Planning, established by Norm Carlson during the early 1970's.

Finally, the Federal Bureau of Prisons has had a strong commitment of service to corrections generally. Thus, an outgrowth of the National Conference on Corrections at Williamsburg in 1971 was the National Institute of Corrections. Initially developed under the umbrella of the Federal Bureau of Prisons, it subsequently has had formal legislative existence; and led by first Sherman Day and now Allen Breed, it supports training, research and technical assistance in the corrections field with strong support from the Federal Bureau of Prisons.

Developments and Trends in Corrections

As we take this time to look at the first 50 years, it is well to consider some of the developments in the field and trends for the future. The theme of this morning's program is dedicated to line staff, and I have great respect for the role of line personnel. In my profession, the greatest force in changing others is one's own personality, and it is critical that line staff have the preparation to work with provocative people and to keep their cool. When I was at El Reno in the Federal Reformatory, one of the major developments under the leadership of Warden John Galvin was involvement of line personnel in the decisionmaking process regarding inmate programs and quarters placement. Officers were involved with the classification process, and they responded well to the opportunity to make that input, to be a positive force and not just a turnkey. Therefore, one of the major developments is the continued improvement in the quality and quantity of staff training to help them cope

more effectively with the inmates for whom they are responsible.

A second trend which is taking place now in corrections is something which has been occurring over the past two decades in the mental health field, namely, the effort to place individuals in circumstances where they have the "least restrictive care." With the classification system of the Federal Bureau of Prisons, there is a shift away from assuming that everyone must be in the most restrictive situation. This is parallel to the whole trend of community corrections, to provide correctional opportunities for people closer to their home settings, and various concepts of "aftercare" in corrections with halfway houses and the like.

Another significant development is the increasing commitment to meeting standards, not only the ACA and Bar Association Standards, but the Department of Justice guidelines soon to be released. There is a feeling that correctional care can be humane and still effective.

Another significant development is the continued commitment to the increasing professionalization of corrections, with education, training and research.

And finally, there is the impact of consumerism, of the "rights" of inmates and the monitoring of corrections by others, legislatures and courts, whether we like it or not. Because of this, it behooves those concerned with corrections to assert themselves in sustaining standards in this field.

Conclusion

In conclusion, there have been some remarkable developments in the past 50 years in corrections, which reflect changes in the society in which we live. Many of you have been intimately involved in bringing some of these developments about. Those of you who have retired have passed on a significant legacy, and if I may speak for those who are carrying on your work, let me offer our deepest appreciation. We would not be where we are today in the field without your efforts and support. We thank you for this first 50 years—a beginning.

To the present leadership which must respond to continuing challenges and keep in mind the future, more power to you. Your work, when successful, is often little noticed by other than those in your charge, and many of them are unlikely to thank you. Nevertheless, recognize

that your efforts are far-reaching in their impact. Persevere and keep the faith.

May I close with what again is a timely

admonition. In the context of the eternal struggle for Good to contain Evil, as you persevere, may the Force be with you.

Careers Versus Jobs

BY RICHARD A. MCGEE

American Justice Institute, Sacramento, California

WE ARE GATHERED here today to observe the 50th Anniversary of the Federal Bureau of Prisons. Normally on such an occasion, I should want to say "Happy Birthday," but the phrase somehow sticks in the throat. Who in our profession can be very happy, on any day, in view of the state of affairs in American prisons in recent years? We are criticized by everybody from *Time Magazine* to the Black Panthers. At the same time, our politicians persist in prescribing simplistic crime remedies which result in sending us increasing floods of clients and then balk at paying the price.

But to you in the Bureau I do say in good conscience, "Congratulations on 50 years of respectable survival!" The Bureau has survived for half a century without destructive riots, scandals, and breakdowns of administration. This, in spite of rapid and uneven growth, changes in political leadership in the executive branch, new prisoners' rights legislation, the rise of employee unionism, abandonment of the judicial policy of "Hands Off" prison management, and finally the intensification of racial conflicts in and out of prisons.

Hardly half a year goes by in recent years without some horrendous event in one of the 50 states that seems to tell the public that either we don't know how to run prisons or that there is something fundamentally wrong with the prison as a governmental institution.

Riots, scandals, and political mischief making in our work are, of course, not new. They are merely symptoms that occasionally call attention in dramatic fashion to persistent failures somewhere in the system.

This is not the occasion to analyze the many factors of philosophy, economics, and politics that beset the American prison or to merely extol the wisdom and skill of the management—past and present of the Federal Bureau of Prisons. It seems more appropriate and useful to select

and examine what seems to me to be the most important single ingredient of successful prison management. I am reminded here of something your first director, the Honorable Sanford Bates, once said in a small conference some of us had in New York City with a visiting delegation from Canada. That was probably about 1939. One of the Canadians asked, "What would you say are the three most urgent problems of American prisons?" Sanford answered promptly, "Number one, personnel; number two; personnel, and number three, personnel." Of course, we talked, too, about overcrowding, idleness, political meddling in management, lack of public understanding, irrational sentencing and parole practices, and rising costs. But Sanford was right then, and his emphasis on personnel is just as correct today as it was 40 years ago.

During the national epidemic of riots in the early 1950's with Trenton, New Jersey, and Jackson, Michigan, leading the way, our only prison riot in California occurred one evening at the then brand new prison at Soledad. We were forced by fantastic increases in population to move into the new quarters faster than was wise. This meant not only transferring many existing personnel but the rapid hiring of scores of new correctional officers. By coincidence, the Greyhound Bus drivers were on strike at the same time. During the training and shakedown period about half of the new recruits were striking bus drivers. Then when the strike was over, most of them left us just when trained personnel was most urgently needed. The evening the inmates in one cell block took over and broke everything breakable in the place, the most experienced officer in that block had been on duty less than a month.

The point here is a simple one. Those bus drivers who left in a flock were job holders interested only in a regular paycheck, not in

careers in the service of the State. Our warden was not very smart to have hired them—as seen later by our 20-20 hindsight.

So how do we build for career service and professionalism in the public service and especially in the prison service? If this sounds like the introduction to a book on *Principles and Practices in Prison Personnel Management*, take heart! I intend only to touch the high points.

First, there must be *sound and consistent leadership*. The service at all levels from top to middle management must be headed by executives who have purpose, direction, constancy, and integrity in addition to knowledge and experience in the business they are in. Good leaders attract good followers. Only the most foolhardy soldier would volunteer to go into battle led by an incompetent, inexperienced political opportunist. The uninterrupted succession of career leaders for 50 consecutive years surely is one of the items the Bureau has cause to celebrate today.

So what else must we do to professionalize the correctional services? Certainly a *merit system for all employees* is a must. This entails high standards for initial employment and promotion on a competitive basis. It involves many other things, too, like fairness in assignments; recognition of personal and family needs; a sensible grievance procedure; and opportunities for self-improvement and job satisfaction. Obviously, it also means pay scales that are competitive in the labor market.

That the Bureau has had both good and constant leadership and a superior merit system for its employees is not debatable as far as I know. But if correctional services, including prisons, are ever to become recognized among such professional occupations as law, medicine, journalism, engineering, social welfare, education, architecture, pharmacy, and even trades like plumbing and barbering, some conditions must be in place which are beginning to emerge but are now only in embryo or nonexistent. Let us list some of them.

(1) We need a clear statement and general acceptance of our goals and purposes. There must be a sound philosophical underpinning of ideas supporting policy and practice. The field as never before in the past 50 years is now in a state of confusion on this vital issue.

(2) We need a generally accepted code of ethics more specific than one which merely says we should be honest and humane.

(3) We need professional standards of both policy and performance. In this, happily, we have made a beginning. But that this is a slow and tortuous process I can personally attest since I was chairman of ACA's first Committee on Standards 30 years ago.

(4) Besides the writing and publication of standards, a monitoring system supported by law will have to be instituted. The present voluntary program of ACA will not be enough.

(5) We need a well organized body of useful and relevant knowledge which can be transmitted through conventional methods of professional education. Here we are making some progress, but the great majority of administrators in our field are still attempting to acquire their basic professional learning by piecemeal methods and hard experience. That many do not survive is not due entirely to political meddling.

(6) University level curricula need to be developed and standardized so that the existing state of the art can be made available to oncoming generations. Research must go hand-in-hand with professional education to ensure the development of theory and practice on parallel tracks. Beginnings are seen in many parts of the country, but I have yet to hear any governmental appointing power demand that candidates for director of corrections, prison warden, or probation chief be graduates of an accredited school of criminology with specialization in correctional administration. And quite frankly, if I were a state governor, I probably wouldn't do it either because such college curricula as exist have not yet matured to the point where I would have confidence in their validity.

(7) There is a need to forge strong links between the intellectual world and the realm of practice. Here, too, some movement can be reported, but the importance of these relationships are often unrecognized by both parties.

(8) Eventually we must develop some kind of a licensing system for the subprofessions in corrections. If cosmetologists must be licensed to reduce the probability of unskilled operators spoiling a woman's hair or singeing her scalp, why not provide similar safeguards against the far greater damage a correctional worker might do to his or her powerless wards.

(9) A strong and consistent program for upgrading the rank and file and middle management personnel must be in force in every agency from the probation department of the juvenile court

to the cooks and tradesmen in the state's high security prison. Neglect of this function can be as disastrous to the system and its managers as it would for a race car driver to neglect the maintenance of any of the parts of his machine from tires to carburetor. If managers and leaders of the future are to come chiefly from within, it is axiomatic that the potential for growth amongst all levels of personnel must be fostered and encouraged.

In the end, none of these goals and their concomitant results will come to pass unless we all do a better job of interpreting our work to the public. It is the political figures in both legislative and executive roles who hold the levers of power in our system. Their special skill is partly intellectual, and partly an intuitive capacity to respond to inchoate public attitudes.

Our challenge and that of every worker in the

total system is to move these half formed and uninformed public attitudes in positive directions. Those of us in administrative roles are often unaware of the impact on public opinion that is exercised by the many thousands of rank and file workers. Their comments and attitudes transmitted informally to neighbors and family, and in all kinds of social contacts from barroom to church are heard and observed as in the "E.F. Hutton Speaks" commercial. They may be having far more influence than the warden's speeches to the Kiwanis Club.

That this day's exercises are dedicated to the "line workers" is an indication that the Bureau recognizes that leadership without followership is a transparent pretense.

And now, in closing, let me quote from an old Polish drinking song, "Sto Lat! Sto Lat!" May you live 100 years!!

News of the Future

RESEARCH AND DEVELOPMENT IN CORRECTIONS

By JOHN P. CONRAD

American Justice Institute, Sacramento, California

THE COMING OF DSL TO CALIFORNIA

IN CORRECTIONS our controversies come singly. Once a battle is joined, our attention span does not extend to other issues, however unsettled they may be. The heat they generate warms us to thought, but it does not scorch the system to the extent that changes in the interactions of offenders with their keepers and monitors become readily visible. We have argued fiercely about whether and to what degree probation subsidy succeeds in reducing prison commitments, or merely widens the correctional net. It was not long ago that the clamor concerned the effectiveness of correctional treatment—did it "work"? We are still arguing about the need for more prisons or more deinstitutionalization. Along with most of my peers and, I suppose, most of my readers, I do not resist these debates. I enjoy these disputes, I like to take a position and watch myself refine it as I respond to other disputants with opposing or differing arguments. As intellectual exercise, it flexes the muscles of the mind, and sometimes starts the adrenalin to flowing. But however these disputes are settled, the real changes in correctional systems take place because of cruder forces than are generated in academic debate. Violence in prisons, and the public fear

of crime affect the daily routines of corrections far more drastically than the simmering discourse between the new retributivists and the old utilitarians.

These reflections are evoked by a certain nostalgia for the debates on Determinate Sentencing Legislation (a term which I will abbreviate to DSL and pair with ISL for Indeterminate Sentencing Legislation), which engaged a great deal of my attention in 1975-1977. It was an interesting debate in that it was conducted with unusual civility and dealt with some profound issues in the administration of justice. What was especially interesting about it was that for all the profundity of the discourse, it did not address, nor would its resolution solve, any of the most serious problems in correctional administration. Indeed, if I may quote myself, "We shall soon enjoy the benefits of the flat term . . . but we shall find, I think, that among those benefits there will be little significant change in the incidence of crime. The criminal justice system is not likely to become more just, even though redundant structures and the invalid assumptions on which they were based will be pruned away."¹

Discourse began in 1975 with the publication of David Fogel's ". . . we are the living proof . . ." Academic criminologists, researchers, and administrators chose up sides, for or against the adoption of DSL. Those who argued in its favor made six points of varying cogency, not necessarily consistent with each other:

(1) ISL requires parole boards to predict the future behavior of an offender, which, as Morris and several others showed, is patently impossible.²

¹ *Determinate Sentencing: Reform or Regression?* Proceedings of the Special Conference on Determinate Sentencing, 2-4 June 1977. Washington, D.C., National Institute of Law Enforcement and Criminal Justice, March 1978, p. 89.

² David Fogel: ". . . we are the living proof . . ." Cincinnati, Anderson Publishing Company, 1975.

³ Norval Morris, *The Future of Imprisonment*, Chicago and London, The University of Chicago Press, 1974, pp. 31-43.

(2) ISL results in prisoners serving disparate terms for similar crimes—sometimes the same crime.

(3) As generally administered, ISL results in an offender being held in an ambiguous limbo for months and years, not knowing until nearly the time of his release when he will finally return to the streets.

(4) Inherent in the assumptions of ISL is the belief that an offender can be coerced into participation in rehabilitative programs from which he will benefit in spite of himself. The Martinson studies showed that coerced rehabilitation does not "work."⁴

(5) The corollary of argument⁴ is that prisoners learn to manipulate parole boards with pretenses of rehabilitation.

(6) The ISL is not and never was really intended to facilitate rehabilitation, in spite of⁴ and⁵, but rather acts as a powerful control of prisoners, parolees, and their conduct in prison and out.

Against these arguments, the points made by those who advocated retention of the ISL were mostly pragmatic:

(1) ISL is a mechanism for equalizing the disparate sentences meted out by hundreds of judges whose discretion is affected by personal beliefs about criminal behavior, how the state should respond to it, and how it may be best controlled.

(2) If ISL is abandoned, the insulation of criminal justice from legislative caprice no longer exists. Demagoguery and public passions will increase the severity of sentencing but never will operate in the other direction.

(3) ISL allows for a safety valve when prisons are over-crowded; parole boards can reduce average time served, which can't be done under DSL.

(4) No law can be written that can take into account the vast differences in criminal motivation and behavior, but the discretion of the parole board can moderate the penalties imposed on the venial offender technically guilty of a charge also imposed on more serious offenders.

(5) Most of the criticisms leveled by the DSL advocates could be met by modest changes in parole board administration without risking the upheaval of the whole system.

All these arguments and more were brought together in a symposium conducted in Berkeley in the summer of 1977. I took a position on the side of the Justice Model, but I urged that it be adopted with great caution. The dangers of the upheaval foreseen by the ISL retentionists were real and potentially destructive. Some of my colleagues in Columbus had done an exercise to assess the effect of the Justice Model sentencing structure, as expounded by Fogel, on the Ohio prison population. The results were sobering. It was clear that the bulging prison population would be substantially increased, perhaps by as much as 25 percent, and there would be no means for reducing it. I thought that the resolution of this controversy might be a case in which we could put to use one of the advantages that political scientists claim for federalism: One state can experiment with legislation the probable effects of which are uncertain, without the whole nation having to go into travail. In the event, that is what happened. Several states—I haven't kept count—have adopted DSL, leaving the rest of the union to watch and see what happens.

Now the returns are coming in. Last June, the Rand

Corporation released its first report on the effects of DSL under the carefully designed California statute, later modified with less care.⁶ The news is partly reassuring, partly disquieting. On the reassuring side, we are told that the criminal justice system has adjusted smoothly to fundamental changes in procedure. There were some initial bobbles, but the technical requirements of the statutes have been met by the judges, the prosecutors and the defense bar. Training seminars for the trial judges were conducted by the Judicial Council and seem to have been effective in putting the administration of the statute into fairly uniform practice. There are some developments in judicial and prosecutorial practice that are of great interest to correctional officials. Lipson and Peterson, the authors of the report, tell us that some judges involve themselves directly in the plea-bargaining process, while other judges reserve their roles to scrutiny of the conviction offense to make a determination of the appropriate sentence. The authors observe that, "without the Adult Authority to 'look past' the conviction offense and base sentences on the real nature of the crime, the conviction offense now becomes more significant, determining the actual prison sentence. As a result, some prosecutors observed greater judicial scrutiny of negotiated settlements." (p. 18)

Lipson and Peterson do not tell us what this trend means in terms of general sentencing practice. We can surmise a trend from their notation that, "... a number of incumbent Superior Court judges have lost elections after campaigns attacking their 'lenient' sentencing practice." (p. 25)

On the other hand, although the legislature has increased some penalties and made mandatory prison sentences for some crimes, the prosecutors have used some aspects of the new system as chips for plea-bargaining. "As part of the bargain for a prison sentence, prosecutors will frequently drop an enhancement for a prior record." The same seems to be true for enhancements arising from "great bodily injury." However, public sentiment about the use of weapons in the commission of a felony has evidently persuaded prosecutors to be much more implacable about enhancements on that account. This analysis does not go so far as to tell us the proportion of offenses actually involving the possession or use of a weapon that resulted in enhancement. In 19 percent of the robberies, the sentence was enhanced for possession of a weapon; in 31 percent of these offenses the sentence was enhanced for the use of a weapon. That compares with 4 percent of the robbery sentences enhanced for great bodily injury, and 8 percent enhanced for a prior record.

DSL AND THE CROWDED PRISON

What made correctional officials most nervous about the adoption of the DSL structure was the probability that prison commitments would increase, and the length of prison terms too. An unmanageable situation was foreseen by many, with the legislature swelling the prison population by hiking up the penalties and having no escape hatch in sight.

Lipson and Peterson found that the data could not lead them to a conclusive resolution of this anxiety. Prison commitments in California have indeed shot up. The rate for male felony commitments in 1977 (when the DSL was adopted) was 32.4 per 100,000 population. That rate rose to 39.3 in 1978. The increase was the largest ever recorded for a single year. The rate for 1979 was not computed, but it was inevitable that it would considerably exceed 40 per 100,000. But the median

⁴ Douglas Lipton, Robert Martinson, and Judith Wilks: *The Effectiveness of Correctional Treatment*. New York: Praeger, 1975.

⁵ Albert J. Lipson and Mark A. Peterson: "California Justice Under Determinate Sentencing: A Review and Agenda for Research," Santa Monica, California, The Rand Corporation, June 1980. In the remainder of this text, quotations from this publication have been identified by the pages of the monograph on which they appear.

time served by prisoners paroled declined from about 30 months in 1977 (and as high as 40 months in previous years) to slightly more than 21 months in 1978. That looks unexpectedly benign, but it conveys an erroneous impression. Lipson and Peterson note that: "Shorter prison terms under the DSL may reflect only the increased use of incarceration. Under the DSL, a larger proportion of felons sentenced to prison have been convicted of property crimes that carry shorter sentences. Their greater numbers would bring down the average, even if term lengths stayed the same for each conviction offense." (p. 27)

Interpretation of the data on commitments is complicated by the trend toward higher rates that began in California in 1972, and seems to be continuing through the present and into the foreseeable future. Some of the increase in commitment rates would have taken place under the ISL, but there appeared to be no way to apportion the extent of the increase that was part of a long-term trend, and the portion that could be attributed to DSL.

Whatever happens to commitment rates in the coming years, the prison populations will increase at rates that must dismay those who plan and administer the Department of Corrections. The total population of California prisons rose by 12 percent during 1978. The projections for the coming 10 years give no reason to expect an abatement. Already California prisons are returning to a double-celled condition which, it had been hoped, had been left behind for good with the effects of probation subsidy.

Lipson and Peterson point out what everyone should know: There are three and only three ways to solve the overcrowding problem: (1) Reduce prison commitments and the length of prison terms. (2) Increase the use of community release programs. (3) Build new prisons.

All these alternatives are politically unpopular. There is legislation pending to initiate the construction of new prisons. It is vigorously opposed by advocates of de-institutionalization and also by economizers. Prison terms and commitments are rising rapidly, community release programs are being studied by the Department and by legislative committees, and, if new prison construction is actually authorized, there will be an increase in prison capacity in 1986. If all goes well . . .

That is up to the legislature. Lipson and Peterson outline the options: "... the legislature will have to provide funds for prison construction, modify sentencing policy to reduce prison intake, establish an administrative agency to set prison terms, reintroduce indeterminacy, or establish a substantial number of non-prison alternatives for felons. If the legislature does not make effective choices using these alternatives, basic decisions will then be made by intervening courts." (p. 51)

Lipson and Peterson did not attempt an inmate opinion survey. They did, however, interview a small number of inmates. There appeared to be a consensus of approval that the old Adult Authority régime was gone for good. Prisoners no longer had to endure repeated denials of parole without explanation or discussion of the ways by which parole board approval could be gained. Some of the enhancements and stiffened penalties that were added to the statute after enactment of Senate Bill 42, the original law, were resented. The balance of opinion, if the survey approached a representative sample, was favorable, if not euphoric.

For the administrator, two major concerns about the effect of DSL are allayed by this study. There had been

much speculation that without the Adult Authority to spur participation, prisoners would not involve themselves in programs, and the legislature would probably curtail them. The data are not yet as hard as one would like, but it appears that there has been no decline in enrollment in either academic or vocational education. There is some entirely subjective opinion that, because prisoners know when they are to be released, they start their release-planning earlier than was the case during the days of indeterminacy.

The tentative conclusions about prison discipline are mixed. Long before the advent of DSL, California had a notoriously difficult problem of violence and contraband narcotics in the maximum security prisons. During the 10 years preceding DSL, the number of disciplinary infractions had increased sevenfold. That alarming escalation is largely due to the severity of the narcotics problem. The trend is still upward, but there is no apparent connection with DSL. The sanction introduced in the legislation at the request of the Department was good time. Once good time has been earned, it is vested and cannot be revoked. For the period in which an infraction occurs, good time can be denied and, as the full award of good time will reduce a 3-year term to 2, the denial could be an influential deterrent to misconduct. As it happened, however, the original draftsmen of the Senate Bill 42 did not trust the Department to be fair about its management of good time denials and hedged the procedures with intricate appellate provisions. So far rather little use has been made of the denial of good time.

MORE RESEARCH NEEDED

The terminal incantation that customarily concludes a research report is a recital of all the research that is needed, now that the study just reported has identified the problems, or shown how the data could be definitively interpreted. As the years go on in criminal justice research, these agenda become a little unconvincing; one is led to speculate that another grant is urgently wanted so that a career can be continued.

This report is an exception. Lipson and Peterson make a fascinating case for pursuing these data much farther than was possible in the 3 years that DSL has existed in California. We need to mount a systematic watch on the legislature to see at what point rationality in the legislative sentencing policies is achieved. There are, of course, many pessimists who are sure that no legislature can ever be rational about so emotional a subject as the punishment of criminals. Certainly no senator or assemblyman is going to win an election by pushing through a general reduction of sentences.

Still, there is a crisis coming, and crises have a way of concentrating the minds of officials who have to contend with them. The bleak options outlined above must be considered and a selection of a policy must be made. The kinds of information assembled by these authors will, if collected continuously, provide legislators with some advance notion of the seriousness of what is about to happen and with hints about what will be the consequences of each choice they could make.

They also recommend studies of the behavior of judges and prosecutors, to which I would add that the defense bar also deserves some scrutiny. The impact of DSL on the correctional community will not be static. It will be particularly important to watch the effect of good time denials on those who are punished in this way and its deterrent impact on the rates of infractions.

The catalogue of research to be done is an important

outcome of the Rand study; it is to be hoped that in a time of dwindling resources money can be found to support the 10 or 12 investigations urged. The issue on which all the disputants united before the passage of Senate Bill 42 was that, while considerations of fairness and humanity may have motivated the authors of the legislation, the modest gains in correctional decency would be far outweighed by imprudence in the details of sentencing prescribed by the statute. Therefore, at least for the first years, and probably for an indefinite future, the operation of the law would have to be monitored closely. No lawmakers can assess the effects of what they have done, or decide what they must do, without

full information about what is going on and what is about to happen. The impending crisis in California may still be avoided if legislators will make judicious use of information of the kind that Rand has assembled. A responsible legislature should take heed, and probably will. It is to be hoped that in other states similar studies to this excellent example by Rand will lay out a clear review of what the consequences of DSL have been and how the options for the future compare. A legislature that chooses DSL has chosen to live dangerously. In such a situation, research can minimize the danger—and also maximize the realization of the good intentions that motivated the change.

Looking at the Law

BY JUDD D. KUTCHER

Assistant General Counsel, Administrative Office of the United States Courts

YCA—SPLIT SENTENCES

There are important practical and legal aspects of a court's imposing a split sentence in connection with the Youth Corrections Act which deserve discussion.

The adult probation statute of title 18 of the United States Code contains a sentencing provision known as a "split sentence" (incarceration followed by probation) authorizing a Federal court to incarcerate a defendant during a portion of his sentence, for a fixed period up to 6 months, suspend the execution of the remainder and place the defendant on probation. 18 U.S.C. § 3651 (paragraph 2); see *United States v. Hooper*, 564 F.2d 217, 220 (7th Cir. 1977). The purpose of a split sentence is to permit a court to grant probation to a defendant where it feels that the public interest requires the offender to serve a part of a sentence before being placed on probation. *Id.*

The Youth Corrections Act (YCA) 18 U.S.C. § 5005 *et seq.*, is a sentencing statute establishing special sentences for youths as an alternative to adult sentences. The Act provides for probation, § 5010(a). Section 5010(a), itself, is silent with respect to a court's YCA probation powers but does include a "no commitment is needed" restriction on YCA probation:

If the court is of the opinion that the youth offender does not need commitment, it may suspend the imposition or execution of sentence and place the youth offender on probation. (Emphasis added.)

Another section of the Act, however, suggests that § 5010(a) incorporates all the powers given to a court under the adult probation statute, 18 U.S.C. § 5023(a):

Nothing in this chapter shall limit or affect the power of any court to suspend the imposition or execution of any sentence and place a youth offender on probation or be construed in any wise to amend, repeal, or affect the provisions of chapter 231 [18 U.S.C. § 3651, general adult probation] . . . of this title.

The exact extent of this incorporation is as yet unclear. In particular, there is still uncertainty concerning whether a court may impose a split sentence in conjunction with YCA probation.

Our office has long felt that a court could not im-

pose a split sentence under the YCA. Legal Opinion No. 8 (Nov. 16, 1978) (former Legal Opinion No. 11, May 7, 1973); see *Clark v. United States*, A.2d

No. 79-938 (D.C. App. June 20, 1980) (Dicta). We feel that there are several interpretive obstacles to finding a YCA split sentence legal: (1) The language of section 5010(a) precludes commitment, (2) a period of commitment with section 5010(a) probation appears retributive in nature, in conflict with the rehabilitative thrust of the YCA, and (3) a fixed period of court-directed confinement, required as part of a split sentence, conflicts with the statutory structure of the Act whereby section 5010(b) and (c) sentences are indeterminate, the actual release decision resting with the Youth Act authorities under section 5017.

Nevertheless, the imposition of a YCA split sentence merits serious consideration, in view of the practical benefits of a YCA split sentence and the recent Ninth Circuit holding in *United States v. McDonald*, 611 F.2d 1291 (9th Cir. 1980), that this type of sentence is legal. The practical aspects of a YCA split sentence and the *McDonald* case will be discussed prior to examining in greater depth the apparent problems with a YCA split sentence.

Many judges and probation officers, contrary to our view that a YCA split sentence is illegal, have imposed YCA split sentences because of the sentencing benefits. For example, often a court would prefer to have the flexibility to give a youth some confinement, yet not be forced to subject the youth to an indeterminate sentence of possibly 6 years in length under 18 U.S.C. section 5010(b). The alternative of giving the youth a split sentence as an adult has the distinct disadvantage of denying him the possibility of having his conviction set aside under 18 U.S.C. § 5021(b). See *Tatum v. United States*, 114 U.S. App. D.C. 49, 310 F.2d 854 (D.C. Cir. 1962). One indirect approach to achieve the result of a split sentence has been for the court to make a "no benefit" finding, impose a split sentence under 18 U.S.C. § 3651, and then, after the period of confinement, reduce the adult probation to YCA probation under Rule 35, *F. R. Crim. P.*, or under the court's authority to modify probation. However, the necessary "no benefit" finding

followed by a "benefit" finding involves the court in a distasteful subterfuge in order to accomplish this purpose.

Of the circuit courts, only the Ninth Circuit has ruled whether a court can impose a split sentence under the YCA.¹ Initially, it held YCA split sentences illegal. *United States v. Marron*, 564 F.2d 867 (9th Cir. 1977); *United States v. Mollet*, 510 F.2d 625 (9th Cir. 1975). However, relying on the Supreme Court decision in *Durst v. United States*, 434 U.S. 542 (1978), which upheld the imposition of fines and restitution in conjunction with YCA probation, the Ninth Circuit recently reversed its position. *McDonald*, *supra*.

McDonald noted that the Supreme Court in *Durst*, *supra* has interpreted the YCA, in light of 18 U.S.C. § 5023(a), as indicating a congressional intent to "preserve to sentencing judges their powers under the general probation statute when sentencing youth offenders to probation under § 5010(a) . . . *Id.* at 551." 611 F.2d at 1294. Since section 3651, as amended, explicitly authorizes split sentences, the court extrapolated the view that *Durst* "engrafts it [a split sentence] on section 5010(a)." *Id.*

In *McDonald*, the district court imposed a 7-year 5010(c) sentence and suspended the execution of all but 6 months. While it is possible to interpret *McDonald* narrowly to authorize only a YCA section 5010(c) split sentence, it can also be seen as authority for a section 5010(b) YCA split sentence.

McDonald specifically overturned the Ninth Circuit's prior decision in *United States v. Marron*, 564 F.2d 867 (9th Cir. 1977), to the extent it held a YCA split sentence illegal. Thus the court indirectly extended its section 5010(c) holding to a section 5010(b) YCA split sentence. This is because *Marron's* reasoning in ruling that a YCA split sentence was illegal was based on a section 5010(b) split sentence held illegal by an earlier Ninth Circuit opinion. *Mollet*, *supra*. Finally, the implicit rationale underlying *McDonald's* section 5010(c) ruling would necessarily apply equally to a section 5010(b) split sentence.

As to its rationale, *McDonald* relied on *Durst*. But in applying *Durst* to the split sentence context, the court had to reach certain conclusions: (1) The "no commitment" restriction language of section 5010(a) can be ignored, (2) a short period of confinement of a split sentence, like a fine or restitution, is not "retributive punishment" prohibited by the YCA, and (3) a fixed period of confinement as part of YCA probation is not in essential conflict with the requirement of section 5017 that the administrative authority to release a youth from a period of indeterminate treatment rests with the Youth Act authorities, not the court. Since *McDonald* fails to address these issues, further comment on the possible basis for explaining these implied conclusions is required.

First, it is necessary to contend with the "no commitment" language of § 5010(a). As noted earlier, an apparent prerequisite to a section 5010(a) probation sentence is a finding that no commitment is necessary. Since the confinement portion of a probation split sentence requires up to 6 months confinement it would necessarily conflict with a finding that no commitment is necessary. Yet, as indicated above, section 5023(a) expressly declares that nothing in the YCA is intended to limit or affect the court's probation authority under 18 U.S.C. 3651.

While *Durst's* incorporation language is broad, it does not expressly state that every feature of adult probation, however incompatible with the language of § 5010(a), must be incorporated.

Like sections 5010(a) and 5023(a), the legislative history of the YCA reflects both the "no commitment" restriction of section 5010(a) and the fact that a court was intended to retain all of its adult probation power:

Under [the bill's] provisions, if the court finds that a youth offender does not need treatment, it may suspend the imposition or execution of sentence and place the youth offender on probation. Thus, the power of the court to grant probation is left undisturbed by the bill. (Emphasis added.)

Durst, *supra*, 434 U.S. at 551. If the "no commitment" language of section 5010(a) precludes a split sentence under the YCA, it would indeed limit and affect the court's probation power, contrary to section 5023(a)'s mandate. Thus the above legislative comment and the language of sections 5010(a) and 5023(a), reflect an apparent conflict.

This conflict might be explained by the fact that the split sentence provision of the adult probation statute, section 3651, was not enacted until 1958, 8 years after the YCA was enacted. Thus at the time of the above noted legislative history and the enactment of sections 5010(a) and 5023(a), there was no conflict. The question then is whether, in light of the change in the probation statute, Congress would have intended section 5010(a) or section 5023(a) to govern.

For the split sentence option to apply with section 5010(a) probation requires, in effect, that the change in section 3651 implicitly repeal the "no commitment" words of section 5010(a). The canons of statutory construction offer mixed instruction on this subject. 1A Sands, *Switzerland Statutory Construction*, §§ 23.09, 23.10 (4th Ed. 1974). Repeal by implication is generally disfavored in the law. In construing conflicting legislation, the emphasis should be on avoiding making statutory language superfluous. However, the presumption against implied repeal often runs counter to the probability that the legislature did desire a change. So where a real conflict, rather than an ambiguity, exists between statutes, it is certainly reasonable to understand the later enactment as superseding the existing law. *Sands*, *supra*, § 23.09.

In this instance, it can be argued that there is a clear conflict between section 5010(a) and § 3651, as incorporated by section 5023. There would appear to be no congressional objective to denying a youth a split sentence. Conversely, permitting a court the split sentencing option is fully compatible with the underlying congressional intent in enacting the YCA: "the Act was meant (by Congress) to enlarge, not restrict the sentencing options of federal trial courts . . ." *Dorszynski v. United States*, 418 U.S. 424, 437 (1974). (Emphasis added.) Relevant to the desire to avoid making language of one statutory provision superfluous is the fact that a recent change in the Federal Magistrate Act operated a change in the statutory scheme of section 5017. See Federal Magistrate Act of 1979, Public Law 96-82, § 7(g) (1)-(4), 93 Stat. 646. This Act gives magistrates authority to commit a youth under the YCA for no longer than 1 year, thereby rendering the 6-year language of section 5017 superfluous to that extent. Perhaps, then, the "no commitment" language of section 5010(a) need not preclude a YCA split sentence.

A second related difficulty concerns the fact that the YCA has been construed to prohibit "retributive" pun-

¹ One district court, *United States v. Baranowski*, 297 F. Supp. 198 (E.D.N.Y. 1969), has upheld a split sentence with section 5010(a). 297 F. Supp. at 200. *Baranowski* is of very little help, however, since the court imposed an adult sentence under section 3651 along with a section 5010(a) sentence, a sentence of very dubious legality.

ishment. See e.g., *Durst*, *supra*, 434 U.S. at 545. *Durst* resolved that issue with respect to fines and restitution by finding that neither were retributive in nature. *Id.* at 553-54. One important factor *Durst* relied on was that section 5010(a) is silent with respect to fines or restitution: The language of section 5010(a) "neither grants nor withholds authority to impose a fine or restitution." *Id.* at 549. But, as noted above, section 5010(a) is not silent with respect to commitment. And a period of confinement with probation might well be considered "retributive." See *Marron*, *supra*; *Mollet*, *supra*. On the other hand, the confinement would be under section 5010(b) or (c) and thus be "treatment." As such it could be deemed "rehabilitative." Also, by being able to suspend imposition of a full section 5010(b) or (c) sentence, the sentencing judge could assure that a youth offender received only a "taste" of treatment while avoiding the possibility of a much longer treatment period, e.g., up to 6 years under section 5010(b).

Third, a most serious obstacle to concluding that a split sentence under the YCA is permissible is that a split sentence requires a fixed period of confinement established by the court. Section 5017, which sets forth the administrative release discretion of the Youth Act authorities, prohibits court-directed fixed sentences under the YCA. It only permits indeterminate sentences set by the Youth Act authorities. See e.g., *United States v. Cruz*, 544 F.2d 1162, 1164 (2d Cir. 1976) (2-year section 5010(b) sentence illegal); *Burns v. United States*, 552 F.2d 828, 830-31 (8th Cir. 1977) 3 year section 5010(c) sentence illegal; *United States v. Jackson*, 550 F.2d 830 (2d Cir. 1977); *Tatum v. United States*, *supra*, (3 to 9 year section 5010(c) sentence illegal).

A very recent court opinion, issued prior to the *McDonald* decision, rejected the legality of a section 5010(b) YCA split sentence because of this issue. *Clark v. United States*, No. 79-938 (D.C. App. June 20, 1980) (Dicta). *Clark* involved a conviction under the D.C. Code, so the court found the D.C. Code probation statute which fails to provide for a split sentence, rather than 18 U.S.C. § 3651, applicable in conjunction with section 5010(a). See 18 U.S.C. § 5023(a). Slip Op. at 5. However, the court still addressed the general issue. According to *Clark*, a section 5010(b) split sentence is:

Contrary to the design and plan which Congress has painstakingly enacted. A sentence of that kind necessarily detracts from the authority [to tailor the length of sentence actually to be served to fit the needs of the individual] which has been entrusted [by the YCA statute] to the [Youth Act] administrators of the program.

Clark, *supra*, slip op. at 4. The court distinguished *Durst* by pointing out that the sentences approved by *Durst* "do not involve or encroach upon the administrative authority to release . . ." *Id.*

If the split sentence provision of section 3651 existed at the time the YCA was enacted would Congress have structured the release plan of section 5017 to permit the sentencing court to set such an initial fixed confinement period? A plausible conclusion is that Congress would have done so. The implicit repeal of the language of section 5017 affecting the release authority of Youth Act administrators would be similar to the comments made above in regard to section 5010(a). In the context of section 5017, it can be argued that the detraction in authority of the Youth administrators provided by section 5017 is more apparent than real. In ordering a split sentence the court would impose a section 5010(b) or (c) sentence and suspend execution of all but a short period

of it. The fixed short period would be part of the defendant's probation, and probation is not involved with the release authority of the Youth administrators. Upon revocation the unexecuted portion of the section 5010(b) or (c) sentence would be executed, *MacDonald*, *supra*, which sentence would be fully indeterminate and subject to the Youth Act administrators under section 5017. Accordingly, section 5017 could be read to allow the necessary deviation from its overall statutory scheme in this respect.

In sum, the availability of a split sentence under the YCA would provide courts with an important sentencing tool. Hopefully, more circuits, and ultimately the Supreme Court, will clarify whether the technical questions presented by the statute's language may be resolved in favor of allowing the imposition of a YCA split sentence.

INCARCERATION AS A CONDITION OF PROBATION

In an earlier article, a comment was made suggesting the propriety of the imposition of a probation condition of incarceration. Kutcher, "Looking at the Law," 43 Fed. Prob. 64 (June 1979). Upon reflection these are good reasons for questioning this kind of condition.

First, cases which have approved the interspersing of probation with a period or periods of incarceration have done so only in the context of weekend sentences. These cases should not be understood to authorize a general probation condition of incarceration. See *United States v. Clayton*, 588 F.2d 1288 (9th Cir. 1979). *United States v. Haseltine*, 419 F.2d 579, 581-82 (9th Cir. 1969); *United States ex rel Spellman v. Murphy*, 217 F.2d 247 (7th Cir. 1954). A weekend sentence has the benefit of permitting the probationer to maintain facets of a normal life, primarily employment. See *Haseltine*, *supra*. However, a straight period of incarceration would not have that enlightened purpose or effect. It would be disruptive. A condition of incarceration, other than for weekends, seems fundamentally at odds with the liberty aspect of probation deemed so important by the Supreme Court. See *Gagnon v. Scarpelli*, 411 U.S. 778 (1973); *Morrissey v. Brewer*, 408 U.S. 471 (1972).

Second, the split sentence provision of section 3651 argues against the validity of periods of incarceration as conditions of probation. This provision was added to section 3651 of title 18 to give courts the option of incarceration with probation but only before probation starts, not after. See *United States v. Hooper*, 564 F.2d 217, 220 (7th Cir. 1979). Presumably, the split sentence provision would have been unnecessary if courts already had authority to impose periods of incarceration with probation.

SEARCH AND SEIZURE

An important question regarding a probation officer's duties in the search and seizure context is what authority an officer would have in a situation where he entered a probationer's home on a visit and observes marijuana in plain view.

As to the use of force, there is no established authority for an officer to enter forcibly a home to conduct a warrantless search. See *Latta v. Fitzharris*, 521 F.2d 246, 251-52 (9th Cir.), cert. denied, 423 U.S. 897 (1975). But in the situation described above no force in the entry of the dwelling would be involved. Once lawfully inside I think the officer would have authority to stay. The practical issue would be one of safety.

If the officer decided to leave he could take custody of the marijuana prior to leaving. A probation officer has authority to make a seizure in connection with a plain

view search. *United States v. Workman*, 585 F.2d 1205, 1208 (4th Cir. 1978).

There appears to be no case law on the specific subject of a probation officer's authority to exercise physical force to accomplish a seizure. The authority to seize, as ex-

pressed by *Workman*, however, would implicitly suggest the power to use reasonable force to obtain custody of the marijuana. At the point of physical resistance on the probationer's part, personal safety would again become the pivotal issue.

Letters to the Editor

Comments on "The Ex-Offender and the 'Monster' Myth"

TO THE EDITOR:

In "The Ex-Offender and the 'Monster' Myth" the authors corroborate statistically what many of us in criminology have observed: Some incarcerated offenders make constructive changes in their lives as a result of imprisonment. Prison requires these individuals to "slow down" and think about the future surrounded by others for whom crime did not pay. On the outside such metamorphosis is difficult because of daily temptations and the presence of successful criminals—those who were never imprisoned, those who were diverted to probation or other programs. Since it is the individual who decided to commit a crime, it is he who must decide to change. Such changes occur privately and are not publicized since culprits do not like to admit defeat in their criminal efforts.

Many of the felons come from homes and schools that were disordered. Prison thus serves as a rite of passage into a more structured world where anarchy does not reign. It is unfortunate that prison must do the job that the family and the school did not or could not do. Before landing in jail most inmates had rejected parental advice, school counseling, judicial aid such as probation, suspended sentence, etc.

The deprivation of liberty, aggressive behavior in cell blocks and other areas regimentation are much more traumatic to the middle-class critics of imprisonment than to the actual residents who did not lead a comfortable life before. If we could identify and isolate the mentally disturbed penitentiary residents, our institutions would be more humane and safer. Further, the recidivism rates would be lower since we could select promising inmates for reform efforts.

August 5, 1980

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TO THE EDITOR:

In the recent article "The Ex-Offender and the 'Monster' Myth" (FEDERAL PROBATION, March 1980) Megargee and Cadow present persuasive evidence that the myth ("prison makes prisoners worse") is not justified. A possible weakness, however, concerns the fact that their data comes from a single Federal Correctional Institution. In connection with a major study currently being conducted

by Federal Prison System's Office of Research¹ some additional light can be cast on this issue from a Bureau-wide perspective.

NUMBER (AND PERCENT) WITH NO ARREST OR WARRANT
ISSUED DURING THE FIRST YEAR AFTER RELEASE,
BY SALIENT FACTOR SCORE CATEGORY*

Salient Factor Score Category**

Release Sample (N)	Poor	Fair	Good	Very Good	Total
1970 (1806)	271 (51%)	302 (64%)	367 (76%)	290 (91%)	1230 (68%)
1978 (1894)	148 (53%)	283 (67%)	492 (80%)	515 (90%)	1438 (76%)

*Excludes cases with sentences of 1-year-and-1-day or less (in 1978 these 601 better risks, if included, would have raised the success rate to 77%).

**Categories indicate likelihood of being successful post-release.²

These figures reflect an overall success rate between two out-of-three (in 1970) and three-out-of-four (in 1978). A comparison of the success rate during this time span within salient factor categories shows an increase in three of the four.

Thus it would appear that not only do a greater number of releasees succeed (than fail), counter to the current mythology; but, additionally, a statistical analysis of the above data (chi square=27.88, p. < .05) reveals that whatever is going on in the "black box" of Federal Prison is now helping significantly more than it did 8 years ago.

August 8, 1980

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Thanks From an Author

TO THE EDITOR:

I would like to thank you for publishing my article ("Home Supervision: Probation Really Works") in the December 1979 issue of FEDERAL PROBATION. Interestingly, after our Department's administration read the article, they decided to keep probation officers doing the home supervision job rather than replacing them with probation aides. Our Department is experiencing severe budget cut-backs and you helped give priority to a good program.

April 24, 1980

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¹ Beck, James L., "Measuring Recidivism Rates for Federal Offenders," Bureau of Prisons, Mimeo, 1980.

² Hoffman, P.H. and Adelberg, S., "The Salient Factor Score: A Nontechnical Overview," FEDERAL PROBATION, March 1980.

Reviews of Professional Periodicals

THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY

Reviewed by EUGENE H. CZAJKOSKI

"Criminal Statistics in the United States," by Roland Chilton (Spring 1980). Within the field of criminology, much progress has been made in developing devices for achieving and evaluating statistical information. Indeed, quantitative measures employed by criminologists have become so intricate as to make criminology as much a home for mathematicians as for sociologists or lawyers. Lest the refinements of statistical method bulge beyond what is warranted by the essential study substance, it is necessary to have reliable and coordinated information available. The analogy of "a silk purse out of a sow's ear" helps make this point. High powered mathematics and computers cannot overcome basic deficiencies in information.

Chilton's well documented article analyzes what is currently available in terms of national level criminal justice information. He sees that there is too much fragmentation and too little accessibility. He classifies criminal justice statistics into six categories: victimization statistics, e.g., the National Crime Survey (NCS); agency statistics, e.g., Uniform Crime Reports (UCR); criminal justice record statistics, e.g., Computerized Criminal History (CCH); specialized and limited statistics, e.g., Drug Awareness Warning Network (DAWN); and Federal criminal statistics, e.g., Federal Supervision Statistics (provided by Federal probation officers). The numerous statistical information systems which fall within the aforementioned six categories are managed by several agencies both public and private. Among these agencies are the FBI, Census Bureau, NCCD, the U.S. Courts, NIJJD, INSLAW, NIDA, etc. The fact that comparability is lost among such disparate data depositories makes research difficult. Accessibility is impeded by both the public/private axis of management and by the opportunity of so many administrators seeking to avoid agency embarrassment by classifying information as confidential.

While he acknowledges that central direction in the gathering of criminal justice statistics will not guarantee accessibility or interpretability, Chilton believes that it will vastly improve the measurement of crime and the assessment of crime control programs. He supports the establishment of the Bureau of Justice Statistics within the U.S. Department of Justice. By coordinating record-keeping systems (for example, coordination between the victimization statistics program and UCR would be of great obvious benefit), by eliminating competing reporting programs and by mandatory cooperation with a central apparatus, the Bureau of Justice Statistics will go a long way toward a more efficient and rational handling of criminal justice data.

"Problems with Existing Prediction Studies and Future Research Needs," by Leslie T. Wilkins (Summer 1980). In this short but pithy article, Professor Wilkins discusses research and prediction problems which are fundamentally ethical in nature. He begins by pointing out that all probability estimates are subject to the same two kinds of error: (1) An individual predicted to fail may succeed or

(2) an individual predicted to succeed may fail. Herein lies a profound ethical issue. How does the criminal justice system fairly deal with the obviously significant number of false positives. (It might be argued that if there were only one case of an individual denied liberty, let's say in a parole decision, because of a false prediction of his potential for recidivism, it would be significant.) The substitution of cohort justice for individual justice, through the inculcation of statistical methods of prediction, is a facet of our criminal justice system worth examining with an ethical lens. Many babies are thrown out with the bath water and there is reason to consider what ethical relief the "just deserts" model offers for the situation of imperfect prognosis regarding individual behavior. The inclination of the "just deserts" model to respond to past behavior rather than to the individual and his predicted future behavior does not represent an ideal solution. Wilkins asserts that "humans seem to be anticipating creatures" and the quality of prediction and the reasons for predicting may be more important questions than whether predictions should be avoided.

Improving predictions involves the basic data, methods of input (coding) and statistical analysis. Utilization of basic data often touches upon a number of ethical issues and not only those relating to privacy. For example, "some items of information may be predictive but undesirable for inclusion in an analysis." Predictive characteristics such as race or sex, which an individual cannot change voluntarily, might be considered unsuitable on ethical grounds.

Wilkins states that prediction methods in criminal justice are worthy of study on their own rather than, as is usually the case, being studied incidental to some other focus. Among the questions which Wilkins suggests might profitably be addressed by such study are: why predictions regarding the decisions of authorities in the criminal justice system are more accurate than predictions regarding offender decisions (to commit crime); and, considering that all predictive methods are approximately equal in their predictive power, what is the relationship between the methods as they apply in individual cases.

"Investment of Prosecution Resources in Career Criminal Cases," by William M. Rhodes (Summer 1980). The findings of the research reported here imply that it may not be worthwhile to invest in special prosecution units for processing the career criminal. Neither increased probability of conviction nor increased severity of sentence resulted from the experience of at least one jurisdiction, Los Angeles County, which established a career criminal prosecution unit.

The justification for career criminal programs assumes that recidivists account for a disproportionate amount of crime and that they are identifiable for purposes of increased prosecutorial effort. The increased effort on the part of prosecutors assumedly results in a greater number of convictions and imprisonments which would in turn reduce the overall crime rate by incapacitating the habitual offender. The old idea of incapacitation has received increased currency lately and, while many advocates of the idea, like James Q. Wilson, can see crime reduction benefits derived from an across-the-board incapacitation of criminals, the main thrust of incapacitation has been directed toward the so-called career criminal.

Using a system of case weights, which refers essentially to the average time prosecutors spend on criminal cases at various stages of processing, the researcher analyzed what was being done by the career criminal unit of the Los Angeles County District Attorneys Office. In comparing special career criminal unit prosecutors with regular prosecutors in the same office, some interesting observations were made: Special unit prosecutors spent "five to seven" times more hours than regular prosecutors on similar cases (comparisons were limited to robbery cases and burglary cases); special unit prosecutors spent disproportionately more time on developing civilian witnesses; and special prosecutors spent disproportionately less time on plea negotiations. On the whole, the special unit lawyers "spent much more time on building cases than they did on settling them." They also invested their time earlier in the progress of the case.

Despite success in being able to mount a greater effort (in terms of time) against the career criminal, the desired result of increased probability of conviction and imprisonment was not significantly achieved. Neither the mere existence of the special unit nor the greater investment of time (the two calculated separately) correlated favorably with conviction and imprisonment rates. As a matter of fact, there appeared to be an inverse relationship between time invested and probability of conviction. This latter phenomenon is explained in terms of special units having the more difficult cases to handle and by the fact that trials consumed more time than guilty pleas (the special prosecutors spent relatively little time in plea negotiations).

THE AMERICAN JOURNAL OF ORTHOPSYCHIATRY

Reviewed by CHARLES E. SMITH, M.D.

"Toward a Public Policy on the Chronic Mentally Ill Patient," by John A. Talbott, M.D.

"Deinstitutionalization and Social Policy: Historical Perspectives and Present Dilemmas," by Donald H. Williams, M.D., Elizabeth C. Bellus, M.P.H., and Sheila W. Wellington, M.P.H.

"From Hospitals to Jails: The Fate of California's Deinstitutionalized Mentally Ill," by Gary E. Whitmer, L.C.S.W. These three papers, which appear in the January 1980 issue of the Journal, provide an excellent review of current issues and problems relating to the chronic mentally ill. Dr. Talbott points out that there has been a steady decline in the population of state mental hospitals in this country from a high of 550,000 in 1955 to a current low of 180,000. Among the factors contributing to this decline are the adoption of a philosophy that it is better to treat mental patients in the community than in institutions; the introduction of the newer psychotropic drugs; increasing emphasis on patient's rights; and a shift in the economic responsibility for chronic mentally ill patients from the states to the Federal Government as patients were discharged from state hospitals and moved to board and care and nursing homes. The author states that this so-called deinstitutionalization of the chronic mentally ill has left them without adequate care and support. Among the unmet needs of chronic mental patients today, the author cites, inadequate crisis services, inadequate medical attention and alternative housing and living arrangements, inadequate financial support and employment opportunities,

and inadequate social contacts and counseling services. The author urges the adoption of a public policy which would adequately care for the specific needs of these chronic mental patients. He views the present situation as a national crisis, the resolution of which should be accorded the highest priority.

In their paper on deinstitutionalization and social policy, Dr. Williams, et al., point out that the minorities and the poor who have always received the worst institutional care, are presently most at risk during a time when social services are being cut back. This interesting historical review traces the care of the mentally ill from the almshouses and jails in colonial America to the private asylums of the early 1800's, to the state hospitals of the late 1800's, to the hospital reform movements of the middle 1900's, to the community mental health centers and deinstitutionalization of the early sixties. This paper makes it explicitly clear that contrary to some popular views, the care and treatment of the chronic mentally ill does not rest with professionals but rather it is ultimately determined by political and social process. This being the case, the author suggests that we try to establish "enduring criteria for resource allocation to the poor and the chronically ill" and that we try to agree "on a resource floor below which no one shall fall."

In the final paper in this symposium, Mr. Whitmer describes the shift of mentally ill persons from custodial care in state institutions during the 1960's to prosecution in criminal courts during the 1970's. He points out how California's mental health laws changed the focus of the criteria for involuntary hospitalization from a need for treatment to the demonstration of dangerousness, with a resultant criminalization of mentally ill behavior. Mr. Whitmer describes how police officers, who are called when chronic mentally ill persons misbehave, are unable to get these patients into hospitals and have no alternative but to arrest them so that they are ultimately prosecuted and jailed. The author feels that these "forfeited" patients should be returned from the jails to the jurisdiction of mental health centers. He suggests that a first step toward accomplishing this purpose will be to redefine our concepts of treatment refusal and to reject the criterion of dangerousness as the essential determinant for involuntary institutionalization. Finally, the author observes that the financial, administrative, and staffing problems of mental health centers must be corrected, else shifting the chronic mental patients to them will exacerbate the problems which they are already having. In the alternative, mental health services in jails and prisons must be strengthened, lest they become the "snakepits" of the 1980's.

THE INTERNATIONAL JOURNAL OF THE ADDICTIONS

Reviewed by DAVID M. PETERSEN

"Drinking Among Rural Youth: The Dynamics of Parental and Peer Influence," by Marie L. Lassey and John E. Carlson (January 1980). This paper reports the extent of drinking among teenagers in a sample of rural communities in Idaho and examines parental and peer influences on the drinking behavior of these youths.

There have been few investigations on the use of alcohol among persons living in rural or small com-

munities, although it might well be assumed that a comparable situation to that of urban settings exists. The few previous investigations into the drinking behavior of rural high school students, however, reveal that they apparently tend to drink less than students in urban areas. The study population reported on here included all eighth and twelfth grade students from largely rural schools in three counties in northern Idaho. Questionnaires were administered to 889 students by the principal investigator. Data were collected on consumption of beer, wine, and liquor, but only the predominant pattern, beer drinking, is analyzed in this report. As to extent of drinking, 16 percent of the eighth grade students reported frequent drinking (at least one or two times a week), 24 percent occasional drinking (one or two times a month), 27 percent seldom drinking (at least one time a year) and 34 percent no drinking. Among the twelfth graders comparable percentages were 34, 31, 17, and 19. Compared to previous research findings these data reveal a larger proportion of these rural teenagers who report drinking behavior at least occasionally. As to factors influencing the drinking habits of these teenagers, father's drinking behavior is associated strongly with the drinking patterns of the children. For eighth graders a greater proportion of fathers who are nondrinkers also have children who are nondrinkers. The influence of a nondrinking father appears to diminish as age of the respondent increases; twelfth graders with nondrinking fathers are much more inclined to drink than eighth graders with nondrinking fathers (75 percent compared to 53 percent). In the main the findings for mother influence are similar to that of the father. The closeness of the relationship of the teenager to his or her father shows a modest association with frequency of drinking. Children with a *closer than average* relationship with their fathers are less likely to be frequent drinkers than children who have a *less close* relationship (eighth graders—15 percent versus 28 percent—and twelfth graders—32 percent versus 43 percent). The relationship between closeness with mother is quite comparable to closeness with the father. Lack of communication between parent and child as a causal influence on teenage drinking is partially supported by these data. More communication with the father is associated with less frequent drinking among eighth grade students but a reversal of the pattern occurs at the highest level of communication for twelfth graders. Stronger relationships are revealed for mother-child communication and a higher proportion of both age levels indicate greater communication with mother. Data regarding the influence of the peer group indicate a positive relationship between friends who drink and drinking among both eighth and twelfth graders. Students who report no friends who drink are also likely to be nondrinkers (eighth graders—70 percent—and twelfth graders—68 percent). Those students who indicate, for example, that three-fourths or more of their close friends drink are substantially more likely to be frequent drinkers (eighth graders—43 percent—and twelfth graders—54 percent). Moreover, there is a relationship between "talking about problems with best friends" and drinking behavior. Among both eighth and twelfth graders the greater the problem-related communication with best friends, the more frequent is drinking. In sum, drinking behavior of parents, closeness of relationship with parents, and communication with parents are strongly related to drinking patterns of both eighth and twelfth graders. An even stronger relationship, particularly for the twelfth graders, exists between drinking and friendship patterns. The authors

discuss questions that future research needs to address in this area.

"The Treatment of Compulsive Gambling," by David Lester (February 1980). This paper reviews the techniques used for treating compulsive gamblers and assesses their success.

Compulsive gambling has been viewed as an addiction and the compulsive gambler is seen as being quite similar to the alcoholic or the drug addict. Thus, similar kinds of therapeutic techniques have been applied to compulsive gamblers and to drug addicts and alcoholics. Techniques used for treating compulsive gambling include individual (psychoanalytic) psychotherapy, aversion therapy, marital therapy, and self-help groups (Gamblers Anonymous). The author reviews eight reports of psychotherapy with compulsive gamblers and finds that therapists have claimed a reasonable amount of success in treating this addiction. However, cure results must be viewed with caution as gamblers often gamble sporadically and this probably inflates "success" rates. Study followup periods have been relatively brief and relapses are quite common. No new techniques for treating gamblers have been reported in the literature and no modifications or special problems have been encountered. The problems especially important in treating compulsive gamblers include lack of motivation for change and the role of the significant other in maintaining the gambler as the scapegoat of the family. Therapists have difficulty in motivating patients for treatment whatever their problem. Therapists treating gamblers have been no more successful than therapists treating other kinds of patients in devising techniques to deal with this lack of motivation. The importance of the significant other in the gambler's behavior indicates that therapy for the gambler should not be conducted by inexperienced therapists. Since individual and conjoint family therapy must often be instituted, and since crisis intervention is often necessary to deal with severe depressions in the spouses of gamblers and the severe marital stresses that develop as treatment progresses, the therapist must be eclectic and able to respond quickly in emergencies. The influence of the spouse for married gamblers appears to be crucial. Even therapists using behavior therapy techniques have been forced to use conjoint family therapy in order to ensure stable abstinence from gambling.

"Drug Histories and Criminality: Survey of Inmates of State Correctional Facilities, January 1974," by William I. Barton (February 1980). This paper reports on selected aspects of a detailed study (Survey of Inmates of State Correctional Facilities) of the characteristics of inmates incarcerated in state penal facilities during January 1974. The major purpose of the larger survey was to supplement the limited data base of the National Prisoner Statistics Program which began as an annual program in 1926.

The purpose of this paper is to take selected drug abuse data yielded by the survey and to respond to two basic questions: (1) "What proportion of offenses are committed by persons with a history of drug use," and (2) "do persons with a history of drug use commit different types of offenses than persons without such a history?" These questions are *modified* to refer to the present sample of convicted criminals who have been incarcerated in state correctional facilities. In all, 710 correctional facilities were determined to be within the scope of the study and from this universe a sample of 190 facilities were selected using scientific sampling procedures. From these 190 facilities, some 10,400 inmates

were selected for interviews, again using scientific sampling procedures. This represents roughly one out of every 18 inmates under jurisdiction of state correctional facilities at the time of the study ($N=191,400$ estimated persons). Survey results revealed that 61 percent of the inmates stated that they had used drugs such as heroin, methadone, cocaine, marijuana, amphetamines, or barbiturates at some point in their lives, without a doctor's prescription and outside of a treatment program. The percentages of inmates who had ever used these drugs were: heroin (30 percent), methadone (9 percent), cocaine (28 percent), marijuana (56 percent), amphetamines (29 percent), barbiturates (28 percent), and other drugs illicitly used (16 percent). A greater percentage of inmates presently convicted of property crimes reported ever using drugs than inmates convicted of violent crimes (61 percent as against 55 percent). This difference becomes greater when inmates convicted of robbery are removed from the violent crime category (in this paper, robbery is classified as a violent crime), particularly since 7 out of every 10 inmates presently convicted of robbery had ever used drugs. Roughly 1 out of every 4 inmates (27 percent) stated that they were using drugs daily, or almost daily, at the time of any of their present offense(s) resulting in imprisonment. Around 1 in every 3 inmates (32 percent) presently convicted of robbery was using drugs daily at this time. Further examination of daily drug use at time of current offense(s) revealed that a significantly smaller proportion of inmates were presently convicted of "violent crimes" than inmates with no drug use (41 percent compared to 57 percent). One in 4 inmates (26 percent) reported that they were under the influence of some drug at the time of the offense(s) resulting in their being in prison at the time of the survey. When alcohol use is combined with other drugs, 6 out of every 10 inmates were either under the influence of drugs, or had been drinking, at the time of any of the offense(s) causing their current imprisonment. When these inmates were asked about enrollment in drug treatment programs, we find that only 4 percent of all the sample were enrolled at the time of any of the present offense(s) resulting in imprisonment, while roughly 9 percent had been enrolled in drug treatment prior to the time of their present offense(s). The complexity of this topic, the cautions one needs to be aware of in interpreting the current data and the implications of this research are all discussed in some length by the author.

SOCIAL WORK PERIODICALS

Reviewed by HARVEY TREGER

"Integration of Primary Prevention into Social Work Practice," by Michael Roskin (*Social Work*, May 1980). This is a conceptual article on primary prevention which may bear fruit for a number of social work fields of practice including social work in the justice system. Michael Roskin is currently director, Department of Social Work, Hadassah Hebrew University Hospitals, and lecturer, School of Medicine and Baerwald School of Social Work, Hebrew University, Jerusalem, Israel. The article is based on a demonstration-research project conducted in Evanston, Illinois, which formed the core of Dr. Roskin's doctoral dissertation. A review of the

literature indicated a historical trend in social work intervention from custodial, treatment, and early identification approaches. The author suggests we should now go one step further. This idea is supported by the research in the field and Roskin's own research. "Research indicates a direct relationship between major multiple life changes that are undesired, uncontrolled, and unanticipated and clients ensuing emotional difficulties. Usually the life changes referred to include divorce, separation, death of a family member, loss of a job, imprisonment, and disabling illness or accident. Those who have incurred more than one of these life changes in a brief period (usually within one year) have a three times greater risk than others of becoming emotionally ill in the ensuing year."

Based on the findings of previous researchers Roskin went one step further. He identified a high risk population, set up experimental and control groups. Those who had experienced two or more life changes and had not entered into a professional therapeutic relationship were invited to attend six lecture-discussion sessions focused on the "here and now." Lecture topics included (1) relationships between life changes and health, (2) stress and distress: how to make stress work for you, (3) support systems and personal health, and (4) anticipating and influencing future reactions to life changes. After each lecture social workers used group work techniques to foster mutual aid warm supportive interactions among participants. Pre- and post-tests measuring emotional health were given to the experimental and control groups. Findings indicate participants in the seminar reduced their levels of anxiety, depression, and feelings of inferiority, worthlessness, and suspiciousness significantly more than non-participants. Those most at risk improved more than those at lesser risk.

Adaptable treatment approaches which can be utilized in primary prevention as well as factors against integration of primary prevention in social work are discussed.

"Marital and Family Counseling in Prisons," by David Showalter and Charlotte Williams Jones (*Social Work*, May 1980). This is a direct practice article which makes the case for family counseling services in an adult male prison. It reviews family problems which spouses and children have as a result of prolonged separation. Studies which relate higher parole violations to lack of family contact are discussed. Marital workshops conducted by two mental health social workers of the Kansas State Penitentiary provide an opportunity for the inmate and his wife to focus on: the change each person has experienced while separated; the need to develop effective communication skills that will enable the couple to talk openly with others about their feelings concerning their relationship; the need to make a clear decision about their marriage; how stress and tension interfere with communication; and the need to be knowledgeable concerning community resources.

In the opinion of this reviewer some comment on the effect of the institution on this type of service would be useful. Also, the possibilities for other arrangements for marital and family counseling service which has the added advantage of providing a continuity of service from presentence through parole should be explored.

"Self-Actualization: A Midlife Problem," by Hanna Zacks (*Social Casework*, April 1980). This article discusses the recent research in adult development regarding the middle years (late thirties, early forties) of life. The principle of self-actualization is used as a tool for understanding the direction of developmental processes in adulthood

and in the middle years. It is described as a push to develop according to one's self-concept. Many studies on adult development showed convergent result—in early adulthood the individual is preoccupied with establishing his identity and carving a niche in society—in the middle years the focus of attention starts shifting to the inner self in search of meaning. These years can be, for many, a time of inner struggle and turmoil. Life is reappraised, often accompanied by disillusionment. There is recognition that time is running out and that this may be the last chance for making long desired changes in one's life. The awareness can cause conflict and frustration. The "empty nest" syndrome is particularly difficult for mothers who experience a loss of self-esteem from loss of the central role of the caring mother, and marital partners become the displaced scapegoat in life's disappointments. The middle years bring a new awareness of life's limits and bring about a focus from external to internal concerns.

The highest degree of self-actualization develops when congruence exists between the self-concept and actual potentialities in the person. Self-actualization is the fulfillment of an ideal. It is a major force, giving direction to life and a realization of consciously chosen ideals and values. People in the middle years who need professional help to alleviate stress from midlife conflicts and to realize their self-actualization needs should obtain this in order to reach their full potential.

This article may be useful for correctional workers in understanding the issues and needs of their middle-aged clients as well as to be aware of their own life situations, and how they may be affecting the counseling situations.

"Intervention at Times of Transition: Sources and Forms of Help," by Naomi Golan (*Social Casework*, May 1980). "When individuals and families experience difficulties during transitional phases in their lives, they rarely apply directly to professionals at the outset. They turn to a range of help alternatives; themselves, family and friend networks, mutual help groups, community caregivers, and finally, to professionals," says Naomi Golan, associate professor and director, School of Social Work, University of Haifa, Haifa, Israel. This progression in dealing with a changing situation describes a kind of natural phenomenology in help systems which through increased awareness may be further utilized so that people first will draw on their own resources before seeking professional and agency based services. This article speaks largely to primary prevention and should be utilized by persons seeking to design innovative primary prevention programs. It is possible they may be less costly and more effective in some situations. In summary, this is a stimulating article which synthesizes and raises to consciousness a variety of self-help systems that have worked for many people over the years in dealing with transitions in their life.

CORRECTIONS MAGAZINE

Reviewed by OMAR G. RIOS

"New Mexico: The Anatomy of a Riot," by Michael S. Serill and Peter Katel (April 1980). The facts behind New Mexico's bloody ordeal are identified from initial erroneous reports that emanated during and after the riot of February 2-3, 1980. The authors report that (1)

the uprising was probably planned, (2) that the majority of those who died were apparently not informers, (3) that the drugs obtained by the inmates from the prison pharmacy did not inspire them to violence, (4) that all 33 inmates were murdered, and (5) that the killings did not appear to have any racial aspect.

The New Mexico's prison security system had been evaluated and reported by Raymond Procnier, former director of the California Prison System, 2 weeks prior to the riot. In his report, Mr. Procnier stated that the prison was overcrowded, understaffed, and that guards were undertrained or without training. The bloody riot was leaderless and uncontrolled. It appears that the same inmates went berserk and that their hostility, rage, and anger was vented most severely against each other. Fourteen guards were held hostage, seven of whom were severely beaten while others were repeatedly raped. Prison officials were stunned at the riot's ferocity and at reports of what officials observed inside the prison once control was regained.

"The terror was so pervasive and uncontrolled that the majority of the 1,136 inmates fled and sought safety among the state police and National Guardsmen ringing the penitentiary. Such inmate-to-inmate violence was unprecedented in any prison riot in memory. Both New Mexico officials and outside experts found it difficult to explain."

In the past 5 years there have been numerous complaints about the prison, however, because prison administration has changed so often the people running the prison have not had enough time to deal with the problems. It will take time to develop a consistent policy for running the penitentiary. It will also take time to evaluate changes that are being made as a result of the enacted legislation which followed the riot.

"Can Families Survive Incest?," by Edward Kiersh (April 1980). Since 1971, the San Jose (California) Juvenile Hall has operated a therapeutic program that attempts to provide help for both incest victims and offenders. Incest, which is regarded as society's ultimate taboo, is dealt with in this article.

The juvenile probation department in San Jose has been dealing with child neglect and abuse for a long time. Their program makes it the oldest such program in the United States. Dealing with incest usually calls for a hard-line approach by prosecutors and judges, because it satisfies popular outrage. Convict and incarcerate has been the normal approach to the handling of incest offenders.

This article describes an approach that deals with the devastating consequences for victims, for offenders and for other family members. Instead of ignoring the problem the probation department attempts to resolve the psychological problems that drove persons to incest with their children. Coerced participation as a condition of probation imposes controls upon the offender, protects the victim, and helps to keep families together. "Offenders aren't placed in therapy until they admit and understand the gravity of their crime." This model has been copied by 24 other California counties. Several other therapeutic approaches to handling incest are reported in this article. The CAUSES program in Chicago advocates a different approach away from a legal setting and disapproves of forced treatment. The Sexual Assault Center in Seattle, Washington, is supportive of coerced therapy because evidence shows that people can be stopped from what they're doing if the courts and police use leverage upon the offender. Two other viewpoints mentioned are sup-

portive of adjudication in incest cases to control the offender's behavior and to provide help for the victim and the offender, as well. This article is worth reading. The admittance or testimonials by those with courage to speak at the counseling sessions are shocking. No program is without controversy or criticism and the author cites examples of critics.

"At Stateville, The Calm Is Tense," by Kevin Krajick (June 1980). Illinois' Stateville, the world-famous maximum-security prison, is discussed. The author traces and examines some of the reasons for its change from its once being an international model for discipline to its ultimate degradation and to the loss of control by the prison's administration.

In February 1979, there was a change in administration and since then observers report that the prison is much cleaner, that gang violence has dropped drastically and that basic services are being provided. As the title of this article indicates, an uneasy silence and tension remains at Stateville with the day-to-day operation wondering whether or not the lid will remain or blow off.

The author presents a historical sketch of Stateville, which was opened in 1925 and which was the only prison in the United States built on the "panopticon" plan of Jeremy Bentham. This architectural design neither provided maximum light nor close supervision.

Problems of control existed almost since the beginning primarily due to the overcrowding and to gang activities. However, in 1935 and for 25 years, thereafter, Warden Joseph E. Ragen operated the prison and he established a very peaceful prison record. However, by the early 1960's social change accelerated and court decisions began to make a change in prison discipline, to change inmate rights, to shift emphasis from discipline to rehabilitation and contribute to the relaxation of prison rules. One began to witness more idleness, a higher inmate population and decreasing and institutional programming to take into account the changes taking place. Racial tensions, frequent administrative personnel changes, morale problems, unqualified, underpaid and understaffed, fear of the inmate were other problems that contributed to Stateville being out of control.

The author concludes by mentioning the steps taken to regain control of Stateville. There was secret planning, surprise shakedowns and reorganization, massive show of force, termination of personnel, more careful selection of new personnel, increased inmate discipline and steps initiated also to address basic inmate needs.

Observers have studied the "retaking" of Stateville and they have found that there has been substantial improvement in basic living conditions. They also indicate that many problems remain.

CANADIAN JOURNAL OF CRIMINOLOGY AND CORRECTIONS

Reviewed by VERNON FOX

"Crime: A Form of Market Transaction," by Abdul Q. Lodhi and Edmund E. Vaz (April 1980). Crime is used by some persons as a means of livelihood. It is a profitable career for some, but others earn a meager subsistence. Both rich and poor are drawn into illegal occupations within the legal framework of an occupation, such as fraud, false advertising, kickbacks, and other offenses in large and small businesses and in politics and govern-

ment; (2) marginally illegal occupations, such as fortune-telling, medical quackery, and stripping; (3) illegal associations and occupations with legal coverups, such as fencing, pawn shops, race track betting, and gambling; and (4) illegal associations and occupations, such as syndicated crime, professional crime, and prostitution. The continuation of both legal and illegal work systems depend on a steady demand for the goods and services provided by them. Police surveillance threatens the job security in some illegal transactions, while other white collar offenders enjoy high status in large and powerful corporations or in political office.

"Ontario's Treatment of the 'Criminally Insane' and the Potentially Dangerous: The Questionable Wisdom of Procedural Reform," by Neil Boyd (April 1980). In the past decade, the Ontario government has passed laws to protect the rights of insane offenders and potentially dangerous persons. The Mental Health Act of 1968 established a review process for these detained offenders. Newly proposed amendments would make the criteria more stringent. An analysis of civil and criminal commitments from 1964 through 1973 indicates that procedural safeguards are insufficient. The definition of intolerable deviance or dangerousness is not in the psychiatrist's expertise. Further, it is suggested that psychiatric distinctions between sanity and insanity have failed to be either reliable or valid. Their perception of events tends to show marked deviance from societal norms. There is no evidence that committed patients have improved. Rather than reforming the Mental Health Act, the social utility of the commitment process must be critically appraised. Commitment is founded on control, a hierarchy of power, that appears to lack social utility.

"Diversion: A New Perspective in Criminal Justice," by J.K. Canagayar (April 1980). As perceived by the Law Reform Commission of Canada, diversion is too restrictive and traditional. Diversion should occur at two levels, (1) the preoffense stage and (2) the postoffense stage. Preoffense diversion refers to changing the urban and domestic environment, decriminalization to divert behavior toward situations identifiable with criminality, decriminalization and provision of facilities to solve social problems identifiable with criminality, and legislating to set limits to criminality in the form of crime prevention measures. Postoffense diversion refers to informal diversion in the school to modify behavior identifiable with criminality, exercising parental authority in the home to divert delinquency, helping the victim reach an agreement with the offender on his own, and interest groups dealing with trouble in the area that would include family and drug crisis centers. The use of police, prosecutorial, and judicial discretion could be in the form of warnings, advice, threats, referral to clinics and detoxification centers, educational or work training programs, restitution or settlement, and any other type of diversion that would reduce criminality in the future. The basis for effective diversion programs would lie in the relationships between the offender, the victim, and the community. Diversion should be a complementary and an alternative approach to the criminal justice system.

"The Law and Social Attitudes: Effects of Proposed Changes in Drug Legislation on Attitudes Toward Drug Use," by Andrew R. Nesdale (April 1980). The appropriateness of enacting or repealing drug legislation as a means of influencing attitudes and behavior toward drug use has been of interest during the past decade. To study the immediate changes in attitudes that might result from legislation, a group of 75 male and 62 female

undergraduate students at the University of Alberta were told that the purpose of this project was to obtain their reactions to a nonmedical drug, chlordiacybn, which was an invented name. Each student was given a booklet containing information about the drug. Each of the booklets contained one of the four experimental conditions, (1) Legal—Certain, (2) Legal—Uncertain, (3) Illegal—Certain, and (4) Illegal—Uncertain. They were told the effects of the drug were on the sympathetic and central nervous systems, respiration and circulation are speeded up, pupils become dilated, and appetite is suppressed. They were told that legislation to legalize chlordiacybn had been introduced into the Alberta Legislative Assembly. They were then asked to respond to eight questions regarding the right and wrong of the issue, how available the drug should be, the severity of the penalties, and related questions about legalization. Finally, they were asked anonymously the frequency with which they used soft drugs, such as marijuana, and hard drugs, such as heroin. Of the sample, 45 males and 49 females had never used drugs. Analysis of responses indicated that the only influence of the proposed legislation was on how right or wrong the infrequent or frequent use of the drug might be. It exerted little influence on the attitudes of admitted drug users. Of the nonusers, the males tended to resent legislative infringement and viewed infrequent use as more right if the assembly denied its use, while females were more susceptible to the influence of the legislative body.

"The Validity of the MMPI as It Pertains to Canadian Native Inmates," by Nathan Mandelzys and Elizabeth B. Lane (April 1980). In 1976 and 1977, the Native Council of Canada and the British Columbia Homemakers Association presented separate presentations to the Parliamentary Subcommittee investigating the penitentiary system of Canada, both expressing concern about the use and possible misinterpretation of psychological tests with Native inmates (Indian, Métis, and Inuit). At the Regional Psychiatric Centre (Pacific) at Abbotsford, British Columbia, 95 Native inmates, who were all the Native admissions between 1973 and 1978, were reviewed for severity of the present offense, probability of recidivism, social background, and psychometric information taken from the files. This included results from the MMPI. The sample was compatible with other background information about the Natives, except for more severe offenses, greater violence, and high probability of recidivism. The IQ scores were compatible with other Native groups. The MMPI showed a significant degree of emotional disturbance, particularly on scales showing confusion, thought disturbances, hostility, aggression, impulsiveness, and alienation. The MMPI scores were compatible with norms derived from inmates in the United States and Canada, although the "F" and "Sc" scores were elevated, with the "Pd" score also being high. It is not possible to say with certainty, however, that the generally elevated scores are characteristic of all Native people and the predictive value of the MMPI might be suspect. Since the MMPI scales do not relate well to other relevant values, such as criminal history and recidivism, doubt must be cast on the MMPI as to its validity and meaningfulness as it pertains to Native inmates.

"Administrative Contributions to Prison Disturbances," by Catherine Douglas, Joan Drummond, and C.H.S. Jayewardene (April 1980). Several writers have contended that prison riots result from a combination of predisposing factors like bad food, inept administration, perceived

unjust parole policies, and other factors that generate tension, followed by a precipitating event, such as an altercation in the yard between an officer and inmates, somebody throwing a tray in the dining room, or other generally minor occurrence that "triggers" the explosion. Some refer to this as a powder-keg theory. The Report of the Commission of Inquiry into Disturbances at Kingston Penitentiary in Canada in 1971 specified the predisposing factors as (a) total isolation from society when reintegration into society was the aim of rehabilitation, (b) systems of mass punishment for abuses by a few, (c) manhandling by correctional officers, (d) lack of meaningful or useful work, (e) inmates unable to earn statutory remission but able to lose it, (f) difficulties of adjustment upon release, and (g) the degrading and humiliating nature of prison life in general. The precipitating event was an attack on a guard by two inmates returning from the recreation hall. An anomic situation can occur in prisons when the main office usurps the authority that should remain with local management, when custody-treatment or other conflicts are not resolved, and when the head of the institution is disinclined to take action or provide clear policy and direction. Whatever the relationship between the institution and the head office might be, the social atmosphere of the institution is dependent upon the administrative relationship between the "front office" making the decisions and the "line staff" implementing them. This requires consistent and clear rules and procedures and breaking down the frequently schismatic and polarized nature of the institution that prevents this information from being transmitted directly and clearly to each successive line staff shift.

PROBATION JOURNAL

(England)

Reviewed by HAROLD W. KELTON

"Fuel Debts and the Probation Service," by Kevin Ward (December 1979). Rising fuel prices will present a special problem for low-income clients. Not all probation officers feel it is their place to become overly involved in helping probationers meet such material needs, and, in any event, a representative survey of some officers showed that they had insufficient knowledge of fuel issues and welfare rights to be of any effective help. Ward, a lecturer in Applied Social Sciences, proposes that fuel advisory/welfare rights workers be assigned to probation offices as trainers and consultants to probation officers. Officers would then be in a position to "link-up" with others anxious to take a stance of advocacy on individual cases.

Ward does not really deal with the problem of those probation officers who "ignore practical material issues" or do not see the solving of these issues as "their role," but this cannot be dismissed since there is legitimacy to the position that probation officers who wish to practice as "advocates" before other governmental bodies are moving outside their mandate.

"The Families of Long-Term Prisoners," by Philippa Merriman (December 1979). The observations and conclusions of this article are based on a 1976 study done by the author at Maine State Prison. Families faced with the adjustment that must be made when a member is removed to serve a long prison sentence experience social, psychological, and economic change and their relationship with the imprisoned member is characterized by phases.

There are, for instance, the phases of the early weeks, the early years, and the middle years. There is for some family members a chronic grief, but it is a conclusion of Merriman that practically no marital relationships survive a long imprisonment. The job of the probation officer is to try to preserve family relationships, and it seems to be the author's view that this entails working with the entire family rather than the prisoner alone. Techniques and scope of the study are not provided.

"Sharing Clinical Responsibility," by Dorothy Tonak and Mannie Sher (December 1979). If a convicted arsonist suffering, for one thing, from a "fragmented personality" is placed on probation on condition he also undergoes psychiatric therapy, how can the probation officer and the therapist collaborate to avoid a "fragmentation of therapy"? According to Tonak and Sher, collaborative therapy may be the only economic way to work with such persons given that there is autonomy and authority to order programs of total institutionalization and a covenant based on the sharing of all information and the employment of three-way treatment sessions. The article describes a case in point and warns that collaborative casework is for a few cases and a few caseworkers only. References are included.

"Alcoholism and Crime," by "Neville" (December 1979). Alcohol abuse seems significantly correlated with some criminal behavior. Alcoholics Anonymous offers a successful program for the treatment of alcohol abuse but is not, in "Neville's" view, used as much as it could be. Probation officers should not be deterred or discouraged by the seemingly aloof, "low profile" stance of Alcoholics Anonymous or the tendency of referred alcoholics to initially reject the program. Nonaffiliation with outside agencies is one of the tenants of Alcoholics Anonymous that gives it credence with alcoholics. Probation officers must be patient with alcoholics and realize that program acceptance only occurs with the awakening, in the alcoholic, that he actually has a problem. Better and earlier use of Alcoholics Anonymous by probation officers might keep some offenders from eventual imprisonment.

"Responsibility for Staff Evaluation," by John Tracey (December 1979). There seems to be some general agreement that performance evaluation schemes leading to employee "ratings" are necessary and useful, but there is continued and unresolved controversy as to their design and implementation. Those schemes now in use were designed to meet the management needs of a decade past. We have passed through successive periods of "benign paternalism" and "management by objective" and have now arrived in the era of "participatory management." Thus, it is that there is now some consistency that "... the most promising approach to appraisal so far discovered is the evaluation of performance against pre-set targets jointly identified by superior and subordinate." This means measuring performance of the *task* rather than the *result* and rests on a clear knowledge of the task as an objective. Tracey observes that Britain's probation system employs "... a range of schemes in different places" and that there is uncertainty as to whom the responsibility for staff evaluation should ultimately fall. It must, proposes Tracey, fall to the immediate supervisor. It must be an accurate measurement of an agreed-upon task, nonsubjective, and rendered without collusion or abuse of power. References follow.

"Sexuality and Social Work," by Bruce Hugman (December 1979). Hugman reports on the work of John Hart, "Social and Sexual Conduct," which raises issues about the attitude of social workers and probation officers

towards the sexuality of their clients. Should we be guided by what is natural or what is normal? Do we build privacy or encourage intimacy? Conclusions are apparently not reached by Hart or Hugman but there is a demand, agrees Hugman, that the issues be thoroughly explored and brought into the open.

THE JOURNAL OF DRUG ISSUES

Reviewed by GEORGE I. DIFFENBAUCHER

"The Making of the Rolleston Report, 1908-1926," by Virginia Berridge (Winter 1980). British narcotic policy had, until the drug "epidemic" of the 1960's, a liberal reputation. The Rolleston Report on Morphine and Heroin Addiction of 1926 had established addiction as a medical matter. From 1916 until 1924 there was a consistent Home Office move to establish British policy on the American penal model. That attempt failed, and the "medical model," as incorporated within government policy, remained dominant. There were two influential elite groups—the medical profession and career civil servants—with the subsidiary role of press and "public opinion."

Narcotic use and addiction (a term not in widespread usage until the first decade of the 19th century) were, by the 1900's firmly established within a "medical model" of disease and treatment. Earlier views had envisaged the opium eater as simply the possessor of a bad habit, a personal vice, or a minor form of moral failing.

Britain also became committed to a more extensive system of domestic control as a result of her adherence, early in the 20th century, to the international narcotics control system—specifically through the Shanghai Opium Commission in 1909, and three Hague conferences in 1911-1912, 1913, and 1914. The moral basis of this policy was responsible for the initial moves to rid the Far East of opium smoking. The Far Eastern emphasis at Shanghai was transformed into a full-scale international system through British and German maneuvering at the 1912 Hague Conference. Germany's desire to protect her cocaine industry ensured that control become fully international. Control was to be an all-or-nothing affair. By 1914, however, little had been achieved to bring the system nearer implementation.

The impact of war changed the direction of narcotics policy. The perceived needs of the war effort allowed the passage of more stringent narcotics regulation and brought government into a central position. As in other areas of national life, alcohol most notably, war conditions aided incursions into individual liberty which might have been strongly resisted in peace-time. Smuggling of narcotics was not peculiarly a war-time concern, but under emergency conditions, the leakage of drugs became a serious matter, as well as a potential embarrassment for Britain. It was decided that the matter was indeed a police one. The use of cocaine in the army, especially by soldiers on leave in London, appeared in official eyes to be assuming epidemic proportions. In May 1916, the Army Council introduced an order forbidding the sale or supply of cocaine and other drugs (a wide range which included codeine, heroin, Indian hemp, and morphine) to any member of the forces unless ordered by a doctor on a prescription marked "not to be repeated." There is plenty of evidence that after the war, in the medical profession at least, many thought that further restriction was totally unnecessary;

and working-class consumers of laudanum and chlorodyne still found general acceptability in their communities. Nevertheless, the press reaction to recreational drug use helped emphasize the apparent need for a continuation of the wartime approach. Few papers were without a drug story: "Drugs Signs, Cocaine Eye and Morphine Twitch"; "Nights with the Drug Fiend." The danger of the drug "epidemic" became a matter of public comment. There were links with vice, crime, and socially perverse behavior (emancipated women were regarded as particularly at risk from drugs).

The established medical view of addiction and freedom of the profession itself was to be subordinated to the penal approach. Regulations passed in 1921 aroused a storm of professional protest, not the least for what the Pharmaceutical Journal termed the "bureaucratic arbitrariness and exclusiveness" with which they were drafted and issued. The professional and medical control established over narcotic use was under attack. Cocaine was the "in" drug of the period, associated with living for kicks and the frenetic instability of society and theatrical circles in the post-war world. Chemists were warned to take extreme care in dispensing prescriptions (some, in fact even gave up dispensing dangerous drugs because of the danger of inadvertent offenses.) It was proposed to issue black-list of doctors and addicts to chemists. By 1923 it was indeed proving impossible to exclude the doctors from the structure of control. As early as 1922, the Home Office began to prepare the way for accommodation. Attention has most often concentrated on the report the Departmental Committee issued in 1926. Its results were important; but the manner of its formation and its composition were also significant. It entailed a recognition that narcotic policy could not simply remain a matter of increasing state and policy regulation, as had been the case since 1916. It was henceforward to be based on some form of partnership between the professional ideals of doctors and the aims of government policy. The committee itself was overwhelmingly a medical one, symbolizing not simply the idea of professional control, but also the gradual incorporation of this influential elite within the policy structure. The Rolleston Committee symbolized the partnership between profession and bureaucracy. The Home Office was no longer demanding absolutism, but seeking medical advice. The conclusions of the Committee were strikingly motivated not simply by a humanitarian desire to save the addict from the worst excesses of a penal policy, but also by a strong impulse toward medical control and the interest of the profession. The Rolleston Report attracted very little public attention; but it was from the start a potent force in defining policy. Almost all its major recommendations were accepted by the Home Office. The "British system" was thus formed with almost no political or public input. Drugs were not a political issue at all.

"Causal and Dialectical Models of Deviance: The Case of Marijuana Use in The United States," by William R. Faulker, Marvin Krohn, and Richard A. Mathers (Winter 1980). This paper presents a historical model of deviant behavior focusing on what may be termed the dialectical relationship between *ideology* (including scientific ideology) and *socially structured reality*. Causal models of reality and corresponding research techniques appear, at present, to dominate American social science. We do not accept many of the empirical connections made in earlier (or more primitive) cultures. We label them "magic" and describe them as false or spurious. We believe *our* empirical thought connections but disbelieve theirs. In short, the differentiation of magic from other forms of empir-

icism is no more than ethnocentrism; our ideas are sensible, but theirs are not. Second, it is possible that very little of the reality with which scientists concern themselves operates causally. "Nature" itself is not at all independent of human action. A historical dialectical model focuses on *interactive processes* of actions and reactions, as opposed to *one-way relations* between assumed cause and effect.

Consider the following rather diverse assortment of beliefs about the *causes* and *consequences* of marijuana: (1) Marijuana causes violent crime; (2) marijuana produces apathy (a motivational syndrome); (3) marijuana leads to psychological pathology; (4) marijuana use is a consequence of personality problems; (5) marijuana produces mind expansion and cures psychological hangups; (6) marijuana leads to heroin addiction; (7) marijuana causes sexual promiscuity. Most of these beliefs were in fact "true" at least in the sense that they were temporarily consistent with the social reality from which empirical data on covariation were extracted.

Certainly the statistical association between marijuana use and crime did exist in the 1930's. Marijuana smokers and persons officially defined as criminals tended to be the same persons: the poor and minorities. The marijuana laws, of course, also defined marijuana use itself as a criminal offense. By the end of the 1930's the dominant ideology and empirical social reality concerning marijuana were quite consistent and mutually reinforcing.

The 1950's represented a period of increased penalties for drug users: the Boggs Act in 1951, the Narcotics Control Act of 1956. Around 1950 Anslinger began to claim that marijuana was a stepping stone to heroin addiction. Since those who use marijuana, a nonaddictive stimulant, are also required to see themselves as furtive criminals in a marginal, quasicriminal culture, the interaction of ideology and action in the 1930's may have produced an empirical connection between marijuana and heroin by 1950, and the image of the marijuana user became associated with the already established stereotype of the opiate addict. Some members of the scientific community accepted and reinforced this aspect of the ideology. Also, the causal priority could be reversed. Marijuana, rather than causing psychological pathology, was viewed as its consequence. It is suggested, however, that the key to the association of the two variables lies in the social characteristics of the users. As one author observed, "Characteristically the user comes from a poverty stricken home . . ." The poor are quite easily characterized as pathological.

The 1960's represent a most interesting period in the history of marijuana use in the United States middle classes: the movement of popular music in the 1960's out of the jazz scene of the 1940's and 1950's; the publicity surrounding Leary and Alpert at Harvard in 1963.

By 1973 survey data (National Commission on Marijuana and Drug Use) showed that marijuana use was most prevalent among higher educational and income groups, and among white youths rather than nonwhite. No one seriously claimed that marijuana was a cause of wealth or educational success. Users manifesting the "amotivational syndrome" were described as passive, apathetic and withdrawn rather than aggressive violent or hostile as they had been viewed during the 1930's. During the 1960's many young middle class users were processed as deviant and "dropped out" or were excluded from participation in conventional groups. This was in large part because the law had lagged behind the new social reality.

Dominant culture or official ideology tends, for the most part, to be consistent with socially structured empirical

reality. In the case of marijuana, and perhaps deviance in general, there appear to be two reasons for this. First, deviant stereotypes tend to become more negative the lower the social class of the deviants, and the traits that make up deviant stereotypes are frequently class characteristics. This has certainly been true in the case of marijuana use in the United States. Deviant images have been most negative during periods when marijuana users were primarily lower class persons and were modified substantially as the class level of the typical user increased. Second, deviant definitions, and human action resulting from them, tend to produce self-fulfilling prophecies, molding deviant actors in their images. Users' experiences tended to mirror their expectations. Thus, the ideology and reality of marijuana use interact. The findings of empiricist research tend to be consistent with official ideology since they reflect but do not account for the effects of human action on the reality that they described. Because scientific knowledge is respected in Western culture and because empiricist science tends to produce findings that are consistent with dominant interests, scientists make an important, if not indispensable, contribution to ruling class ideology.

In a general sense, perhaps the ultimate test of any sociological model is its ability to predict and possibly avoid some of the more disastrous consequences of human action. At least it is worth considering the results of reliance on models that assume by their omission that human action is of no consequence.

"New Careers for Moral Entrepreneurs: Teenage Drinking," by Robert L. Chauncey (Winter 1980). This article describes efforts by one government agency (National Institute on Alcohol Abuse and Alcoholism) to generate a social problem in the face of evidence which belies the inflammatory rhetoric. The possibility that social problems may be created in government towers and legitimated in public squares is added to the more familiar likelihood that some problems are also created in squares and legitimated in towers.

The National Institute on Alcohol Abuse and Alcoholism (NIAAA) began operating on May 6, 1971. Some 9 months later, it claimed the preeminence of alcohol among abused drugs: "The switch is on . . . Youths are moving from a wide range of other drugs to the most devastating drug—the one most widely misused of all—alcohol." As a result of this interest, NIAAA announced the development of a 5-year, \$3 million dollar "National Teenage Alcohol Education Program." Interestingly, this wave of alarm over youthful alcohol abuse has no precedent in United States history. Two possibilities emerge. Either the extent of the problems associated with teenage drinking had grown dramatically in recent years, and the diligence of the newly created NIAAA served to publicize this burgeoning problem heretofore clouded by misinformation and blithe ignorance; or the NIAAA, in an effort to sustain itself, had seized on an emotionally charged topic certain to generate demands for a variety of educational and treatment programs.

An exhaustive survey of the teenage drinking literature was recently completed by Blane and Hewitt (1977) at the behest of the NIAAA. After reviewing some 1,100 documents, their conclusions were singularly critical of the view that teenage drinking has grown rapidly over the past few years and that problem drinking among this population has reached epidemic proportions. Briefly they found that (1) the prevalence of use among teenagers remained stable during the 1966-1975 period; (2) there was no demonstrable shift upward or downward in prevalence of use for girls during this 10-year period; (3)

the mean age of first drink had not changed significantly from the 1951-1965 period to the 1966-1975 period; (4) there appears to be no upward shift in frequency of use from 1966 to 1975; (5) lifetime prevalence of intoxication among teenagers remains the same during this period; (6) "limited evidence suggests that collegians today drink more often and become intoxicated more often than collegians of twenty-five years ago; the data, however, are sparse and open to varying interpretations"; (7) alcoholism, as medically defined, is a rarity among children, adolescents, and young adults; and (8) despite widespread belief, data on the drinking habits of children of alcoholics "are extremely limited."

While Blane and Hewitt are careful to add that many teenagers do drink to excess, and many of these suffer adverse consequences, there are no clear indications of a growing problem involving adolescents and alcohol. In 1974, NIAAA Director Chafetz reversed his field by attempting to defuse the issue and blame the media for the uproar over teenage drinking. He was strangely silent concerning his own media presentation. This manipulation of teenage drinking as a public and political issue by the NIAAA offers *self-preservation* as a dominant motive behind the campaign. This is not to demean the agency or its employees, but merely to emphasize the entrepreneurial aspect of welfare organizations, especially ones as highly bureaucratized as the NIAAA. With regard to teenage drinking in particular, the legitimization efforts of alcoholism workers have been hindered by the ambiguity of the problematic behavior, the cultural cross currents surrounding the use of alcohol, the portrayal of alcohol addiction as a disease, the discrimination between the abuse of alcohol and the abuse of other drugs, and several resultant tendencies and situations which hamper the production of social action against this behavior.

It would, of course, be highly reasonable to recommend the end of efforts to create a social problem from teenage drinking. The opposing argument, which suggests the need to exaggerate claims and expand problem areas to generate sufficient income for the beneficial work being done now by NIAAA and the need for additional programs in the future, is easily countered. First, the ceaseless creation of social problems dilutes Federal resources by transferring them from problems already defined, resulting in less than adequate treatment of old and new alike. Second, many social programs tend to benefit not the target population but the various professional classes employed to aid them. Third, some programs may be "more disruptive and costly than the actual deviant patterns themselves." Finally, the regular production of unanticipated and purportedly devastating problems tend to produce (if it has not already produced) a lack of public confidence in all social programs.

"What Happened in Harlem? Analysis of a Decline in Heroin Use Among a Generation Unit of Urban Black Youth," by John M. Boyle and Anne F. Brunswick (Winter 1980). Reviewed by George I. Dittenbaucher. To what degree has governmental policy with regard to heroin use been successful? An analysis of a variety of indicators of heroin use through 1976 suggested a national decline, but reasons for that decline are still to be determined. Changes in the pattern of drug use may just as plausibly be related to social and/or economic changes as to direct government intervention. Which programs contributed to the achievement of policy objectives and what made them work?

The initial sample was drawn in the late 1960's in Central Harlem over two consecutive years with a sampling ratio, each year, of 1 in 25 households. A

restudy was conducted in 1975-1976, 6 to 8 years after initial study, when the sample was aged 18-23 years. It includes 536 youths, 80 percent of the entire initial sample, representing 89 percent of those who were still alive and not located outside the metropolitan New York City area.

The primary focus was on the decline in heroin use generally, which occurred across both sexes. Heroin use among young black people in Harlem had declined sharply in 1975. Specifically, it had been more than halved since the early 1970's. Nine percent of the sample was using heroin in 1972-1973, compared to less than 4 percent in 1975. Eight percent of the female sample was using heroin in 1971, compared to less than 3 percent in 1975. Forty percent of the sample volunteered heroin as a drug which fewer young people were using currently (at time of interview). No similar decline was reported for any other drug. Other drugs, particularly marijuana and cocaine, were reported on the increase by substantial portions of the sample. Obviously, in any given year, the number of persons using heroin is a product of two factors: (1) the number of nonusers who initiate heroin use within that year and (2) the number of users who continue to use the drug in that year. Although some government programs are aimed at both objectives, a number are directed exclusively at one or the other. Treatment programs, for example, are aimed at the user population. Drug education and prevention programs should have their main effects on the nonuser population.

Decline in heroin use in Harlem showed no close association with the supply of the drug. Arrests on opiate charges fell dramatically between 1971 and 1974, with relatively small increases since that time. If arrests had been rising in this period or slightly earlier, while prevalence was declining, it could be argued that law enforcement had an effect. When opiate arrests rates decline, however, during a period of declining heroin use, it can be inferred that they are reflecting concurrent change in the drug use pattern, rather than causing it. The one exception occurred between 1973, when 9 percent of the male sample reported they were using heroin, and 1974 when only 5 percent reported they were using it. This matched the time of the passage of the "Rockefeller" drug laws in September 1973, which carried heavy, mandatory sentences even for small time drug users. A relatively small number of users have been convicted under this law, and its impact at the street level has generally been considered to be negligible. Nevertheless, chronologically the passage of these new sanctions against the drug user coincided with the period of sharp decline in heroin use by young black males in the Harlem sample. Treatment *per se* did not increase the likelihood of terminating heroin use for the general user population. This is not to say that drug treatment is ineffective, but according to these data, drug treatment cannot be held responsible for either the high rate of user attrition or the general decline in heroin use in the study population. What these and other data do suggest is that some heroin users need treatment; a greater number can and do stop without it.

Of the three sets of variables related to direct governmental policy which were analyzed—supply variables, legal sanctions, and treatment effects—all but the second needed to be ruled out as having any noticeable relation-

ship to the reported calendar of decline in heroin use in Harlem. However, a substantial change did occur in the risk of heroin *initiation* across birth cohorts. The actual changes that had been noted in prevalence across the years 1970-1975 were a product of (1) a progressive decline in the rate of *initiation* of heroin use across all six cohorts and (2) a decline in the "normal" *duration* of heroin use among users in the two youngest cohorts. Are there any data that can help us identify which conditions changed that may have impacted most on successive cohorts of adolescents, in deterring them from initiating use and/or encouraging their cessation of drug use? The most commonly volunteered explanations for their own behavior were a general fear of the consequences (45%) and a desire to stay in control of themselves (40%). In all, the three themes which predominated were: awareness, through personal observation, of the consequences of drug use on others; a concern for self-control; and a concern about health consequences. Apparently, access does not have to be curtailed for termination of drug use to take place. Second, users ceased to use the drug after a relatively short period of use (up to 4 years). Most of those who initiated heroin during adolescence, the peak risk period, had ceased to use it by their early twenties. For the majority of heroin users, treatment cannot be considered the primary cause of cessation. The most accepted reason for stopping drug use was having a bad experience with drugs (82% of male heroin users, 87% of female heroin users). The general young sample did not consider trouble with the law as an important reason for stopping drug use (59% of males, 49% of females). Heroin users, on the other hand, reported greater concern with legal sanctions (71% of male users, 64% of female users).

Among male heroin users, trouble with the law was the second most often cited reason for stopping. It would seem that nonusers underestimated the importance of legal sanction in the user's decision to terminate use. Examining data for what might help to explain the cohort shift in more rapid termination among younger people, there was an increase among younger men in the importance attributed to family (72% of younger men, 52% of the older), but this may be a function of younger and consequently closer to their families; its effects on health (77%, 63%); and its effects on employment (59%, 45%).

Policymakers all along have assumed that they were dealing with the model of the *rational actor* in relation to the heroin user or potential user. Governmental policy attempts to manipulate certain of the perceived costs and benefits, e.g., financial costs of buying, legal costs of being apprehended, etc. What this community case study of Harlem suggests is that behavior is a function of perceived costs and benefits. Those that changed were related to perceived consequences of drug use for health and employment. This change was effected through the changed content of the information environment in which decisions about heroin use were made. It is also possible that the enactment of the Rockefeller law with its attendant publicity on increased penalties and enforcement also altered the information environment. Notwithstanding this elaboration, the effects of direct observation and personal experience as deterrents remained the strongest evidence in the data.

Your Bookshelf on Review

EDITED BY BENJAMIN FRANK, PH.D.

Offender Classification: An MMPI-Based Typology

Classifying Criminal Offenders. By Edwin I. Megargee and Martin J. Bohn, Jr. Beverly Hills, California: Sage Publications, Inc., 1979. Pp. 288. \$16.00 (cloth); \$7.95 (paperback).

Crime within prison—murder, rape, robbery, and extortion—has been increasing steadily for over a decade. Isolating predatory inmates from their weaker prey is reason enough for an adequate offender classification system. Increasing populations, inflationary costs, limited resources and decreasing budgets make appropriate classification essential to effective prison management.

Classifying Criminal Offenders is a detailed description of the development of a new offender classification system. As such, it may weary the less empirical but should be of interest to those more research oriented. The new system is based on the Minnesota Multiphasic Personality Inventory (MMPI), a widely used and reliable personality assessment device which provides 10 clinical and four validity scales. The system was developed by analyzing the MMPI profiles of 300 inmates at the Federal Correctional Institution in Tallahassee, Florida. These offender profiles were found to separate into nine distinct groups. Operational rules for group membership were written with rules being revised and refined and a 10th group added as 1,214 additional offenders were classified. An exhaustive data collection and analysis effort then compared these 10 groups on over 100 variables including: criminal behavior patterns, social histories, institutional adjustment, propensity towards violence, educational and vocational achievement, and recidivism. The authors concluded that each of the 10 groups was qualitatively unique and not merely a point on a continuum of deviance.

The major shortcoming of this new typology is the number and uniqueness of the offender groups. The description of the procedure used to identify 10 separate groups (Hierarchical Profile Analysis) was both short and vague with the admission that "results of the analysis are simply descriptive and do not imply statistically significant differences between group or generalizability of groups found in one sample to other samples." MMPI profiles, verbal descriptions and implications for treatment of some groups were also markedly similar. Additionally, about 20 percent of scored MMPI inventories fell into the multiple classification category. They could be classified in more than one group. Considering the similarities between some groups in MMPI configurations, collateral data and implications for treatment, as well as the high rate of multiple classification, 10 offender types is excessive. Fewer groups would be both more practical and parsimonious.

The new MMPI-based typology does, however, have many advantages. It can be applied to adult and juvenile offenders, is quick, computer scored, and can categorize up to 96 percent of inmate populations. The typology is based on a widely used, reliable and valid personality assessment device (MMPI) and provides elaborate descriptions of offender groups as well as, implications for treatment. Aside from one study, the new offender typology is yet to be applied in a practical setting.

Further research is therefore necessary to assess its value in managing offenders. However, as an indepth depiction of the construction of an empirical assessment device, this book should prove valuable to students of criminal justice research.

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STEPHEN MOREA

How To Get a Job and Keep It

Choosing To Work: An Action-Oriented Job Finding Book. First Edition. By Leonard Cohen. Reston, Virginia: Reston Publishing Company, Inc., A Prentice-Hall Company, 1979. Pp. 181. \$8.95.

In his preface, the author confidently informs the reader, "... I'll tell you a secret. If you do need a job, this book can help you. It can show you how to recognize your limitations and your good points and make them both work for you." Mr. Cohen's book is divided into two parts. Part One, "Looking for Work in the Real World," has 18 two- to four-page chapters giving practical advice on preparing oneself for the job search, on effective ways of identifying job sources, and on creating a winning image with prospective employers. The author encourages a "hands-on" approach in that the chapters are generously laced with useful forms for collecting information, example cover letters, application forms, and resumes. One chapter is specifically devoted to the best way to fill out a U.S. Government Application Form 171. Mr. Cohen expects the reader to use the information, forms, and examples presented to make up a surefire job finding kit.

Part Two of Mr. Cohen's book is entitled "Overcoming Biases." In this section, Mr. Cohen devotes individual chapters to the problems faced by minorities, physically handicapped persons, ex-offenders, veterans, the elderly, and those persons with little past work experience. Mr. Cohen frankly addresses the job seeking problems faced by each of these groups. His critiques are complemented by his suggestions on how one may overcome employer biases and, in some cases, use those biases to one's advantage. In addition to his practical suggestions, Mr. Cohen includes example cover letters in each chapter, which can be used by the disadvantaged job seeker to present himself in a positive light. Throughout this part of the book, Mr. Cohen emphasizes that, "In overcoming biases, honesty is the best policy."

The rear portion of the text is an eight-page list of generally available community resources under the heading, "Bibliography." The list is presented in general terms such as: The Newspaper, The Telephone Book, Community Action Agencies for Older Americans, For Women, For Veterans, etc. As a bonus, the author invites the reader to register for a special referral and counseling service by completing an application form printed on the last page of the book, and submitting it to the publisher.

Choosing To Work is a handbook for job seekers. The charts and examples in the book are designed for day-to-day use. The book is suitable for use by a person with the ability to take some initiative in the job search since the author suggests that the reader indulge in self-

examination and self-improvement, in addition to making use of available resources. The author writes in a conversational style using limited vocabulary. The pages are set up in a double column with a single column of printing on many pages accompanied by the author's handwritten parenthetical notes in the second column. A person who is looking for a job and has average reading ability can use this book effectively. The forms in the book, the job resource list, and the suggestions on self-development proved effective material when presented to an employment readiness training group at the U.S. Probation Office in Baltimore, Maryland. I think the book would be useful to probation office employment teams as well as to the general office staff.

Baltimore, Md.

DAVID E. JOHNSON

More on What Works in Corrections

Beyond Probation: Juvenile Corrections and the Chronic Delinquent. By Charles A. Murray and Lewis A. Cox Jr. (Foreword by LaMar T. Empey). Beverly Hills, California: Sage Publications, Inc., 1979. Pp. 235. Hardcover, \$16.00; Softcover, \$7.95.

An earlier report of this study generated great controversy over its research methodology because it claimed that the way to reduce recidivism of serious youthful offenders was to incarcerate them in conventional correctional settings—a claim that ran counter to other research, such as Empey and Erickson in the Provo Experiment. The present volume is the researchers' answer to those criticisms. It is well written and systematically organized. However, as it now stands, the study does not settle the controversy, and it would be premature to view the results as justifying increased use of incarceration even for this class of offenders.

The study began as a comparison of the effectiveness of the Unified Delinquency Intervention Services (UDIS) with that of conventional youth corrections. UDIS provided a range of possible programming from secure settings through group homes and foster care to non-residential care. Since there was little difference found in recidivism rates the study was refocused to what corrections and UDIS had in common, the fact that youth had lower crime rates after the program than before. The controversy had to do with whether this "suppression effect" was an effect of incarceration, or a methodological artifact called the regression effect. The study was particularly vulnerable to these criticisms, since in its refocused version it was a before-after design, rather than a comparison between two groups with different experiences.

The maturation hypothesis is that youth simply grow out of crime, at a particular age, after reaching a particular level of offense frequency, or after they have been involved in crime for a given period of time. Murray and Cox try to rule out age and level of offenses, but not length of delinquent career.

The regression hypothesis is that if offense rates fluctuate randomly over time, and one selects people who have the highest possible offense rates at a particular time, then as time passes these offense rates will tend to fall, simply because of the random variation. The delinquents who were subjected to the most severe interventions were, of course, the most extreme at the time of incarceration.

Murray and Cox chip away at these and other problems separately. They might have come closer to settling the

issue if they had redesigned their regression equation analysis to model straight forwardly and simultaneously their own and the competing hypotheses. As it is, one is left with a feeling that the argument is piecemeal, despite the show of logical rigor in presentation.

Murray and Cox point to the Empey studies of Silverlake and Provo as virtually the only studies in the literature that are comparable, and they admit that the Provo study differs from their finding that incarceration works best. While Murray and Cox treat their finding of reduced crime after incarceration as new and startling, in fact it is common knowledge that recidivism rates, which are generally less than 100 percent, mean that some offenders "get better." Bearing this in mind, incarceration has still been judged unsatisfactory in its ability to reduce crime, either inside or outside the prison walls.

The book should be read as one side in a controversy that is crucial to the direction of correctional programming in the immediate future. It is to be hoped that future research will include better research designs, such as a comparison of the careers of serious delinquents who do and do not get incarcerated, and more effort to model all relevant effects simultaneously in the same regression equation.

Harvard Law School

ALDEN D. MILLER

A Criminology Classic Updated

Theoretical Criminology. By George B. Vold. Second Edition by Thomas J. Bernard. New York, New York: Oxford University Press, 1979. Pp. 433. \$14.95.

The second edition of *Theoretical Criminology* provides the reader with a long overdue review and reassessment of major developments in the most important areas of criminological thought. By updating older materials and introducing completely new chapters, Bernard has gone a long way towards filling in the gaps left by Vold, making this book a must for the serious student of criminology.

The historical approach utilized by Vold and preserved by Bernard, is a useful mechanism for introducing students to the origin and development of criminological thought. Noting that the explanation of crime is a function of one's frame of reference, Bernard takes stock of changing historical frames of reference as regards the evolution of etiological perspectives on crime and, to a lesser extent, the evolution of perspectives on the criminal justice process. As with Vold, Bernard's introductory discussion focuses on the transition from the classical to the positive school. This classification has been and will continue to be a valuable heuristic device in that it allows the reader to think contextually about the problem of crime.

Within his historical framework, Bernard divides explanations of criminal behavior into two camps: (1) those which claim that, on one dimension or another, criminals are somehow different from non-criminals, and (2) those which assert that "the explanation of criminal behavior is not independent of or different from the explanation of non-criminal behavior" (Vold, 1979:3-4).

As regards the first half of this classification (the "kinds of people" half), the reader is introduced to theories related to physical appearance, mental deficiency, hereditary and biological deficiencies, and psychiatric theories in the explanation of crime. Although the presentation in this section (which includes chapters four

through seven) closely mirrors Vold's, it is obvious that Bernard has made a serious attempt to provide a comprehensive update and restatement of these materials. As a result, this section is superior to the first edition in many respects and stands on its own as a scholarly approach to the subject matter.

As evidence of the second half of the above-mentioned classification, Bernard notes that "in sharp contrast to explanations of criminality that depend on demonstrating differences in traits or characteristics of individuals . . . are theories that minimize or ignore entirely the significance of the individuals' biological or psychological make-up" (Vold, 1979:161). From this perspective, individuals and groups vary on *social* as opposed to individual attributes.

Theories in accordance with this general position are represented in parts three and four, which include chapters eight through fourteen. In these pages are found discussions of economic conditions, cultural or learning theories, and conflict theories. In addition, Bernard has included entirely new chapters on anomie and ecology as well as a welcome discussion of current trends in deviance and conflict theory. There are, however, two deficiencies worth noting; one serious, the other, perhaps, inevitable.

Specifically, the absence of a chapter on control theory has to be regarded as a serious omission. The control perspective poses an interesting and important contrast to the above-mentioned models and should be included in any introductory textbook dealing with theoretical issues in criminology. The second reservation concerns the superficial and truncated discussion of Marxist criminology. In all fairness, however, this may have more to do with the state of the art than with Bernard's discussion, for there certainly exists no coherent Marxian perspective on crime.

The last two sections (chapters 15-20) are quasi-theoretical in that they attempt to illustrate theory as practice. Here the theoretical framework set in the preceding pages is discussed relative to specific types of crime (i.e., white collar, organized, and victimless crime) and to prevailing modes of correctional practice. Again, Bernard has done a thorough job of revising and updating Vold.

Overall, one cannot help being impressed with Bernard's revision of this well-known work. It stands as both an excellent overview and with its extensive footnoting and the annotated bibliographies at the end of each chapter, a useful guide to the literature. As an introductory textbook, there is none other quite like it.

State University of New York CASEY GROVES
at Albany

Changing Patterns of Prison Organization

Prisons in Turmoil. By John Irwin. Boston: Little, Brown and Company, 1980. Pp. 277.

John Irwin's recent treatise, appearing precisely a decade after his book, *The Felon*, attempts to explicate what goes on in prisons from a historical perspective covering the last 40 years. He separates prisons into three ideal-types: the "big house," the "correctional institution," and the "contemporary prison." The stated goal is to examine what system of prisoner social order is germane to each.

Surprisingly, Irwin minimally discusses the contemporary controversy between the "importation" and "deprivation" models of corrections which has produced much

refined analysis in the last 5 years. The book, however, adds fresh insights in many neglected areas.

In chapter 1, Irwin discusses "the big house," which apparently has disappeared during the last 25 years, even as images and illusions germane to it linger on. Briefly, the inmate social organization pivoted around the "convict code," the substance of which was an adaptation of the "thieves code" that was imported into the prison. Values that were focal concerns consisted of doing your own time, not snitching (rat), playing it cool, and leaving other prisoners alone.

The second type of institution subsequently to evolve, the "correctional institution," which arose after WW II, had as a population a new type of prisoner. He was not a committed criminal, but was more likely a confused "fuck-up." The "thieves' code" was no longer overriding; the number of thieves had declined dramatically. Why, we're not told. It was a time of optimism, however; inmates and guards were gradually embracing the rehabilitative-ideal as a cure-all. Irwin, himself a convict during this era, tells us that the inmates felt that they were indeed "sick" rather than responsible for their behavior, which in turn directed attention away from social and political circumstances (i.e., reduced life chances), to intrapsychic pathologies. Adjustment centers, euphemistically called, mushroomed everywhere. Gradually, however, hope turned to cynicism which turned to bitterness. Disillusionment increased, as little evidence existed as to the efficacy of the rehabilitative-ideal.

In the 1960's, echoing activities occurring in the outside world, racial violence flared. The web of social order existing previous to this consisted of extended ties of clique membership many of which were integrated; racial disputes had been mediated through this network. With the rise of racial hostilities the clique network unraveled, and at the same time a new group of volatile and dangerous prisoners appeared, the "lowriders." They were unskilled, more openly aggressive young urban toughs. Many inmates also began to discover the writings of radicals. Political activism began to spread.

Irwin's analysis is surprisingly devoid of a substantial discussion of the changing philosophy of the courts. Cases such as *Johnson v. Avery*, *Wolf v. McDonnell*, and *Sostre v. Rockefeller* had profound effects on prison organization.

By 1975, many prison reform movements had lost their momentum; attention of citizens was now focused on crime in the streets, not on the war, civil rights, or the plight of the poor. Attendance at conferences focusing on prison reform diminished; public support waned. Irwin does note that during the prison reform movement of the late 1960's and early 1970's, many politically oriented organizations were beginning to become new sources of identification, activities, and means of conflict management. He hypothesizes that if they continued to develop they would have been the basis of a new more productive prisoner social order. However, correctional administrators saw political organization as dangerous. Incipient organizations were undermined, emerging leaders were transferred. As Irwin points out: "The administrators are comfortable only with one type of control approach: classify, separate and isolate" (p. 228).

The third type of institution, the "contemporary prison" which replaced the "correctional institution," was marked by severe racial segregation and violence. "Lowriders" continued to increase in number. A new convict identity was formed as a consequence. The present-day convict ". . . stands ready to kill to protect himself, maintain strong loyalties to small groups of other convicts (along

racial lines), and he will rob and attack or at least tolerate his friends' robbing and attacking other weak independents or their foes" (p. 195).

Irwin concludes his book with a discussion of "trends and possibilities." He rejects the argument that we can abolish prisons altogether, "we are stuck with prisons" (p. 239). The main purpose of imprisonment "should be punishment" (p. 238), and further he states "I accept prisons because they are punitive (p. 239). Short sentences, removal of some crimes from the category of serious offenses, and altering the social arrangements that promote serious crime are offered as solutions in minimizing the prison population.

Positive functions, states Irwin, are served by prison: (1) "atonement" takes place in which prisoners can become "born again," and (2) "respite" occurs in which inmates pull themselves together, and extricate themselves from destructive dynamics in preparation for a new life (p. 240). It does indeed seem somewhat surprising that Irwin slips into discussing ideals developed during the Pennsylvania system of corrections and which have since been put to rest. It was a failure then, and in all probability will be a failure in the future unless coupled with massive systemic changes focusing on inequality, repression, racism, sexism, and exploitation. It would seem that after careful reflection many prisoners would conclude crime may be a "rational" means of survival in a society where survival is not assured.

Long Island University

DRAGAN MILOVANOVIC

Practical Guide for Criminal Justice Trainers

Approaches to Criminal Justice Training. By John Fay. Athens, Georgia: Institute of Government, University of Georgia, 1979. Pp. 252. \$12.00.

At last there is a "nuts and bolts" book written specifically for trainers in the criminal justice setting. John Fay has molded the research-based concepts and principles of educational psychology into practical "how to" suggestions for criminal justice trainers.

Part I of his book begins with a brief but concise description of traditional and scientific learning theories. He then focuses in chapter two upon fundamentals of the instructional process and motivational techniques.

The third chapter contains an excellent description of 12 different instructional approaches. The role of the instructor, method of instruction, and advantages of these approaches are presented.

Chapter four provides information on programmed instruction. Examples of linear and branching techniques are given. Easy-to-follow steps for writing programmed instruction modules are also contained in this chapter.

In chapter five, the author gives detailed attention to the selection and proper utilization of training aids, ranging from the chalkboard to computer-assisted instructional devices.

Chapter six is devoted to the planning and development of the lesson plan. The author describes the elements of the plan and offers clear-cut guidelines for writing lesson plans. An example of a lesson plan is also included.

The seventh chapter discusses practical exercises and provides helpful hints on how to develop them. Cognitive and psychomotor objectives are incorporated in the development of practical exercises. Important distinctions are made between training objectives and student performance objectives. A detailed example of a practical exercise handbook is included in this chapter.

Part II of *Approaches to Criminal Justice Training* consists of a chapter devoted to the various roles of the criminal justice instructor. The instructor is viewed as communicator, leader, motivator, counselor, and writer. The information in these four chapters would appear to be as pertinent to program managers as they are to trainers.

The chapter on communication moves from an analysis of the general process of communication to a more specific discussion on techniques of improving the quality of speaker delivery.

The section on leadership gives a brief description of democratic, authoritarian, and integrated styles of leadership. Approaches to handling leadership problems are discussed.

In chapter 10, the author applies Abraham Maslow's hierarchy of needs to explain the dynamics of student motivation. Other factors such as stress and informal group norms, which may be obstacles to positive motivation, are covered. Suggestions for creating and maintaining a supportive climate for learning are also offered in this chapter.

The next chapter on the counseling role of the instructor provides a brief discussion about directive, nondirective, and co-analytical approaches to counseling. This is followed by suggestions on how to make the counseling interview as helpful and least harmful as possible for the student.

The final chapter centers around written communication. Some helpful hints are offered concerning outlining, composing, sentence and paragraph structure. This chapter concludes with some examples of how to compute readability by using Robert Gunning's *fog index*.

The book has a glossary, index, and an appendix which contains a recommended basic criminal justice curriculum.

I highly recommend this book to any trainer as it contains information that would be applicable across a wide range of settings.

Kansas City, Missouri

CHARLES L. CLARK

A Behaviorally Oriented Approach to Corrections

Crime and Its Modification: A Social Learning Perspective. By Michael T. Nietzel. New York: Pergamon Press, 1979. Pp. 301. \$27.50.

Professor Nietzel has produced a scholarly as well as practical account of behavior modification approaches to correctional rehabilitation. By doing so he accomplishes the enviable position of meeting the needs of both scholars and researchers and the field of correctional practitioners. The book is well organized moving from the theoretical to the practical utility of correctional behavior modification preferably in community settings.

The primary focus of the book is to critically assess the state of the art of behavioral approaches to corrections as currently conceptualized and evaluated. Its strength lies in its attempt to evaluate in a critical way the accomplishments as well as the deficiencies inherent in social learning theory/behavior modification techniques and practices specifically relevant to the field of corrections. The author's aim is to identify the more useful theoretical approaches to correctional behavior modification as well as the techniques which have generalizability to different treatment settings. He believes this will be useful for developing a "more systematized science of crime prevention and offender change while at the same

time replacing ineffectual, even harmful procedures with more productive alternatives."

Nietzel is an advocate for merging social learning theory principles with the newly emerging field of community psychology. He believes change or intervention strategies should be focused on aiding offenders to acquire competence building skills rather than on aversive interventions designed to eliminate certain undesirable behaviors, which, all too frequently, are short lived. Interventions directed towards system-oriented change and prevention are also suggested as a means of effectively controlling crime.

The first section of the book identifies various problems related to the measurement and etiology of crime. Chapter two describes the various methods for measuring crime and discusses their limitations. A review of various theories of crime (sociological, biological, and psychological) are presented in chapter three and an evaluation of their strengths and weaknesses. Social-psychological theories are discussed in chapter four. I found his coverage and evaluation of control theories (Eysenck's view on the ineffectiveness of instrumental learning in restraining antisocial conduct, Reckless's containment theory) and direct learning theories of criminal behavior of particular value in understanding the nature of crime as a learned response. Professor Nietzel strongly endorses Feldman's integrated learning theory as "an excellent framework from which to investigate the complimentary influences of genetically based personality predispositions, learning, and social labeling in producing criminal repertoires."

In viewing the applications of behavior modification principles to various correctional settings, Nietzel is effective in pointing out many of the problems in working with captive involuntary clients. He criticizes institutional behavior modification programs as intrusive and dangerous as efforts to merely control inmate behavior via compliance. His discussion of community-based behavior modification will be of particular interest to the probation and parole field. Initial success of behavioral approaches to probation lead him to believe that other behavioral techniques could be applied to redefine other probation functions such as recordkeeping activities (definition and charting of target behavior and results).

In the remaining sections of the book the author identifies six principles intended to "increase the conceptual adequacy of correctional behavior modification," such as, substituting individualized treatment and assessment procedures for the uniformity of treatment approach which, in his view, fails to adequately address the conditions that maintain unlawful conduct. From the standpoint of treatment planning he has correctly identified one of the fundamental problems in adult corrections—the failure to match offenders with various therapy alternatives after conducting a "careful delineation of a particular offender's behavioral patterns and a functional analysis of the environmental and interpersonal situations in which the individual's illegal conduct has been most likely."

Although the community psychology paradigm appears to be the guiding focus of Nietzel's work, I found it somewhat less sophisticated and clear in terms of how social learning theory and behavior modification principles could be adequately utilized to influence system oriented change. For example, there are some external environmental forces that impinge on correctional organizations which limit their resources and program options. Resource dependency on the task environment is a fundamental aspect of organizational life. Behavior principles and social learning theory have not adequately addressed organization-

environment relationships sufficiently to offer much in the way of help to the corrections field in learning how to secure resources more effectively from the community. I am much more satisfied with the points raised in this book with reference to direct work with offenders than with its value to system change problems. Nevertheless, Nietzel has provided us with a significant contribution and accomplished his stated objective in providing a fair appraisal of the current achievements of behavioral corrections.

The American University

RONALD I. WEINER

An Organizational Concept of Criminology

Criminology and Crime Policy. By Denis Szabo. Lexington, Massachusetts: Lexington Books, 1979. Pp. 201. \$25.95.

The author's purpose in writing this critical analysis concerning the present state of the art of criminology seems to revolve around his concern over the recent irrational resurgence of the punitive approach to crime control. He interprets this movement as a spurious notion clothed ostensibly in the intellectual guise of classicism. Regrettably this trend is occurring at a time when there is an insidious decrease of public trust in the expressed egalitarian social objectives as enunciated by criminal justice officials. Thus the academic criminologist finds his ideological position increasingly vulnerable to attack from diffuse sources. For this reason, the appropriateness of this treatise rests not only on the timeliness of its publication, but also on its value as a clarification of crime policy relative to existing criminological knowledge. Dr. Szabo has adapted his approach to the historical admixture of philosophical trends and the demands of scientific traditions within which the issue of crime policy is addressed. This is done from his viewpoint as an action-oriented academic criminologist. At base is his premise that the social organism adapts to the exigencies of change inherent in the function of the social system (p. 23).

Historically, Dr. Szabo sees the paradox of crime control policy as the sacrifice of humanitarianism in preference for repressive measures employed to thwart the predatory tendencies of the criminal man. The public's ambivalence toward the criminal often emerges in the form of righteous indignation. This is attributed to our emotional revulsion toward his criminal acts, yet counterbalanced with our conscious realization that the criminal arose from our midst and hence we're all potentially capable of similar behavior. Thus the desire to punish reposes in juxtaposition to the tendency to identify with the actor who so blatantly indulges in the behavior we secretly desire but outwardly control.

In order to clarify where the criminologist "fits" along the above continuum, the author initially poses two questions: "Who are the criminals?" and "What is Criminology?" His answers comprise Part I (four chapters) of this two-part book. This first part briefly deals with the etiology of criminality (psychologically, biologically, legally and sociologically). The latter sociological perspective is interpreted as a triad of challenges advanced from the epistemological, methodological, and political arenas. Here his probing analysis consistently interrelates with—and reflects upon—the consensual and conflict models of modern sociological thinking. These models subsequently become the focus of his more extended analysis of this subject in the following chapter.

The strongest chapter in Part I, however, is his

scintillating examination of comparative criminology which comprises the intellectual core of this treatise. This chapter calls for the support of fellow scholars for a rational compilation of innovative criminological ideas acquired via scientific research to augment current macro-criminological theory. The author believes that this is necessary in order to gain access to new ideological conceptualizations in a manner similar to that used four decades ago in the application of econometrics to economic problems. The author then concludes this intriguing notion with a strategically designated macrocriminological paradigm which calls for data collection relative to (a) sociodemographic organizations, (b) chronological criminality, and (c) an evolutionary analysis of the sociojudicial subsystem of human society.

The remaining sector of the book (Part II) comprises 75 percent of the total narrative. Here in nine chapters he suggests a set of new policies to pursue in processing identified lawbreakers. Criminology, he believes, can advance such policy through that kind of research which seeks to understand the societal reaction to crime as manifested in modern criminal procedure.

Dr. Szabo is critical of earlier academic apathy in the (then) conservative campuses of American and (especially) European universities toward the development of criminology as a social science. But he acknowledges that the fundamental contribution made by these pioneer scholars was their liberal ideology which is presently under attack.

A major problem encountered by the criminologist is the conflict evidenced by his combined role as a missionary-like critic, creator, and prophet within a sociopolitical milieu which is fundamentally resistant to change. The resulting contradictions and ambiguity in official policy-making produces public as well as professional disillusionment. This occurs when "intellectual turncoats" (his term) in political power attempt to neutralize thought reform through rebuttals reflective of the administrative paralysis in which the established order seems enmeshed. If true social progress is to advance over such mediocre officialism, then evaluative research must direct a reformulated social policy in crime control. To date, however, these tenacious bureaucracies have evidenced a remarkable ability to ignore such findings, even where the scientifically determined findings were irrefutable. The resulting institutionalized status quo can best be successfully challenged by committed researchers of high integrity who adhere to a rigid scientific methodology impenetrable to the decadent attacks by those missiles launched from the platform of encrusted bureaupathology.

The remainder of this extraordinary text reaffirms the author's stance as reflected above. He now applies his ideas to the reduction of the schism presently evidenced between government and academe (using in part his experiences in Quebec as an illustration). He prognosticates trends in deviance and crime in postindustrial society with special attention to the emerging political criminal. His conclusion involves a fascinating discussion of proposed remedies for the present dilemma in establishing crime policy phrased in terms of (1) the role of law, (2) the administration of criminal justice, (3) the goals of sanctions, and (4) the social prevention of crime.

The author's anchoring perspective is fundamentally utilitarian in the sense that he seeks to apply the concepts of social science to man's basic need for freedom and justice. In this he was influenced by the writings of Ancel and Pinatel, and hence to some degree this work carries a European flavor which may help to broaden the intellectual horizons of some American readers. The

book itself, while maintaining its primary focus on the common denominator of social policy in crime control, appears (in Part I) as a series of essays as if perhaps written at different times for publication in various professional journals. Hence they don't meld together with the facility one would expect from such a talented writer as Dr. Szabo. However the internal structure of each chapter is very well organized for the edification of the serious reader.

The tone of this treatise is highly intellectual and presupposes the reader's knowledge relative to criminology, social policy, philosophy and general knowledge accumulated from the assorted social sciences. However the immediate focus is upon conventional crime and to a lesser degree on political crime while organized crime and white collar crime receive scant attention. For this reason, it was not intended to serve as a textbook in a generic course in undergraduate criminology. However, in selected graduate seminars designed around criminological theory and its application to social policy, no better text could be found. It is, therefore, highly recommended for this specific purpose and to augment the criminological knowledge of the academic criminologist who desires a new and different view of this fascinating subject.

While the book is intellectually captivating, it is not above criticism. One notes (e.g.) several spelling errors and the mislabeling of Figure 2-2 in the narrative describing the conflict and consensus model. The absence of a title in this illustration implies that only the conflict model is being presented when in fact both are represented. This can confuse the reader, particularly since the narrative which accompanies the illustration is admittedly oversimplified.

It's also somewhat misleading to refer to the 1967 President's Commission on Law Enforcement and Administration of Justice as the "Katzenbach Commission of 1967" (pp. 85; 98; 192) and erroneous to call the American Correctional Association "the American Society of Criminology" (p. 166). Furthermore the author implies that academic criminology in North America began in Quebec (pp. 176-180). He takes no note of the fact that the School of Criminology was established at the University of California (Berkeley) a decade before the Department of Criminology was founded at the University of Montreal. Neither does he acknowledge the analogy of training pilots in submarines (p. 164) as having originated with Mattick and subsequently reiterated by Wilson.

The criticisms are trivial, however, when compared to the overall contribution of this thoughtful discourse. The book itself was originally published in French a year earlier by the University of Montreal and benefits from an admirable translation. The clarity of thought and the intriguing nuances advanced by Dr. Szabo should propel this treatise to the bookshelves of every criminologist concerned with bridging the gap between theory and practice.

Western Michigan University LLOYD BRAITHWAITE

A New Undergraduate Textbook on Criminology

Crime in American Society. By Charles H. McCaghy. New York: Macmillan Publishing Company, Inc., 1980. Pp. 368. \$16.95.

Anyone who has written a textbook knows that it is hard work. This reviewer has written several and can testify that each was a labor of immense proportions.

A good textbook on any subject should meet a number of criteria: (1) It should make students *think*; (2) it should be clearly written and well organized; (3) it should be sharply in focus on the heart of the subject matter; and (4) it should inspire the student to dig more deeply into the subject.

Charles H. McCaghy of Bowling Green State University has met these criteria in this superb volume, *Crime in American Society*. Instructors and students now have the text for the basic introductory course in criminology. In nine carefully composed chapters Professor McCaghy takes the reader through: (1) The Nature of Law and Crime; (2) Researching Crime; (3) Social Theories of Criminal Behavior; (4) Index Crime: Interpersonal Violence; (5) Index Crime: Offenses Against Property; (6) Career Crime: Professional and Organized; (7) Crimes Violating Trust: Frauds by Individuals and Workplace Crime; (8) Abuses of Power: Graft and Organizational Crime; (9) "Immoral" and "Victimless" Crimes. Although one may disagree with this particular chapter classification system, to this reviewer it is logical, helpful and compactly complete. While it is always foolish for anyone to generalize about "crime" as a single phenomenon, this book, better than any to date, spells out how varied, complicated, wide-ranging is crime in American society.

Any instructor who has been in the classroom for a while soon discovers that the semester is never quite long enough! So McCaghy quite wisely deliberately omits consideration of the police, courts, and corrections. Also he devotes little space to broad theoretical issues and refrains advocating a *specific* theoretical framework of his own. This reviewer applauds the approach taken because the book allows instructors who adopt it to use the factual material presented (there are hundreds of authoritative notes and references given in the book) to help students understand the complexity of the problem of crime and avoid the fallacious notion that any *one* theory of causation can possibly account for the wide variety of behaviors judged to be criminal.

The amount of research that the author has put into this comprehensive but specifically focused text is monumental. For example in the first three chapters totaling only 87 pages there are 132 notes gathered at the end of the chapters. But the *number* of notes is not the point. The fact is that the *range* of material reviewed and used to support the pros and cons of differing points of view is masterful. If the educator believes that his or her job is to help the student to *think*, this approach certainly encourages it.

From chapter 4 onward readers are given detailed material on more than 20 identifiable "types" of crimes starting with homicide and ending with "immoral" and "victimless" crimes. This reviewer knows of no other book as complete, fact-filled, and up-to-date as this one. In addition to being an excellent classroom text it is a fine reference book for use as collateral resource reading in general social studies curriculums.

Throughout the book the author makes wise use of figures, usually charts, tables, and a teaching device new to this reviewer—"The Box" or a boxed in carefully chosen short illustration of a particular incident or an excerpt from a piece of research. These "boxes" help to move the student along and inject a feeling of contemporary reality. Another useful teaching aid is the Conclusion section at the end of each chapter. It is always brief and never tells the reader what to think but how to summarize thoughts. A lengthy Index is of great help and it surely took hours to compile it. This reviewer knows!

This reviewer likes so much in this book. Certainly the material on Abuses of Power: Graft and Organizational Crime is landmark material. (Look at the Index and spot some well known names—no fear or favor from Professor McCaghy!) The crime of rape, so often left out of other books is thoroughly discussed. The material on Career Crime—Professional and Organizational—is the best discussion of this matter available.

By now readers know that this reviewer thinks *Crime in America* is a super text. Fortunately instructors and students now have the benefit of this systematic yet powerful presentation. It is a job well done. It is a book much needed.

Sanford, Fla.

HARLEIGH B. TRECKER

Introductory Criminology Text

Foundations of Criminal Justice. By William Mathias, Richard C. Rescoria, and Eugene Stephens. Englewood Cliffs, N.J.: Prentice-Hall Inc., 1980. Pp. 575. \$16.95.

This introductory overview presents the core subject matter and information of the corrections and criminal justice system. It is comprehensive and integrates the issues, practice, and developments of the last decade and the re-examination of policy within the field forced by the events of recent years. The authors clarify issues and place in context the fundamental processes, data, and developments of institutions and agencies.

Mathias and Stephens are associated with the University of South Carolina and Rescoria with the Bank Administration Institute. They write clearly and effectively and the book offers study questions for each section as well as an excellent bibliography. The approach is multidisciplinary, manages to avoid the parochialism of any single discipline, yet avoids a shallow eclecticism. The text is well suited for undergraduate students offered their first exposure to the field and interested in vocational as well as civic orientations to the tasks of police, probation, parole, and correctional roles.

The text conveys the sense that progress, though slow, is being achieved and communicates current concerns with new roles for inmates, staff and citizens: It looks at new staffing patterns, innovations in training, shifting attitudes to the ex-offender and participation of staff and clients in the decisionmaking process.

We have come through a period in which "liberals" and "conservatives" have changed hats and in which group and individual foci have changed. Concepts of rehabilitation are challenged and deemed to be less creditable. The indeterminate sentence, once seen as progressive, is now frequently repudiated. Missing in this book, is an effort to account for these historic oscillations between repressive punitive modalities and open rehabilitative systems, and to clarify the conditions that determine the movement from one to the other pole.

What works is not merely a pragmatic functional issue. Lacking in this text, despite its many virtues, is one further step, encompassing the information in a historical and paradigmatic context. Probation, parole, police, and judicial personnel could be sensitized to the idea that values and institutions are constructs and that practice is enmeshed in belief systems which shape social reality. This text is vocational and operational in approach and what seems to be missing, despite the reporting of current concerns, is such a critical examination and the sense that the field or a social service can be hobbled by a paradigm.

The authors are committed to a functional pragmatic orientation which they presume to be the "nature" of reality and fail to perceive their paradigm as only one model. As a consequence they fail to examine alternative models for shaping the data of the field in ways which might reveal why old solutions have failed or new practices might be developed. They make no reference, for example, to the developments in structuralist theory and especially to the work of Foucault on mental illness, discipline, and punishment which could provide an alternative contextual orientation.

Berkeley, Calif.

NATHAN ADLER

A Manual for Counselors in Leadership Roles

Counselor Supervision. By John Boyd. Muncie, Indiana: Accelerated Development, Inc., 1978. Pp. 552. \$12.45.

This text is endorsed by the Association for Counselor Education and Supervision. It should prove to be a useful manual for counselors in leadership roles. Supervision has been called "The reluctant profession" because it includes evaluation of "near-peers," popularly perceived as criticizing others. Counselors, too, are loath to supervise/evaluate other counselors, possibly because they are not trained in such leadership prerogatives. University training tends to make counselors reactors rather than actors (i.e., leaders). But, in the course of their careers, most counselors will be promoted into supervisory positions. For such persons, Boyd's book provides very handy self-instruction, or *OJT*. A counselor who suddenly needs to supervise others in an agency setting would consult chapter 11; a counselor in civil service could glean useful guidelines from chapter 10. Furthermore, Boyd provides even more refined directions. He demonstrates a behavioral approach to supervision for the director who must create evaluative standards for a Skinnerian staff; psychotherapeutic models for overseeing analytically oriented therapists; as well as integrative and systems approaches. Ethically, however, one should not evaluate another counselor who uses a different form of therapy.

For the agency director who must employ supervision from within the maze of grants, lay boards, public pressure, and conflicting State and Federal regulations, Boyd provides help by addressing "accountability." Good supervision/evaluation helps the agency demonstrate effectiveness in helping clients which is necessary for continued funding and public trust. "Supervision applied to a staff of counselors involved in program development, management, and evaluation is a route to program accountability" (p. 17).

The book provides solace for counselors who find themselves dumped into mandated settings, where they must generate their own role, need, and clientele. Chapter eight includes a realistic appraisal of the painful struggle of counseling to maintain its own identity in the hostile world of the schools. Principals will not relinquish their authority and autonomy to any person functioning in a guidance staff relationship. Most counselor supervisors are placed in an inferior role when dealing with school superintendents in regard to upgrading and developing guidance. The tenured counselor, friendly with the principal, is free to ignore and/or sabotage even the noblest attempts to improve helping services. Yet, Boyd boldly attacks such problems with common-sense suggestions for "resolving inter-staff conflict and increasing delivery systems" (p. 322).

An appendix provides critical references to 24 instruments for the analysis and assessment of counselor performance. The book is well-illustrated with complete competency evaluation forms and checklists.

Throughout this lengthy and technical manual, Boyd never loses sight of the purpose of counseling—to help clients. Supervision, evaluation, and accountability are only means to improve the process that promotes individual welfare.

Hackettstown, N.J.

JOHN W. DELONAS

Understanding Justice in Cities

Crime and Justice in Urban America. By Herbert Jacob. Englewood Cliffs, New Jersey: Prentice-Hall, 1980. Pp. 198. \$7.95.

This is a brief, clear, and realistic discussion of the present state of justice, both criminal and civil, in American cities. How well the urban citizen is served by the justice systems depends, says Professor Jacob, on the political structure of the particular city and on the citizen's economic status. The volume contains no original research but is a useful presentation of information from other sources. It is a readable treatment, useful as part of a general course in political science, as a practical introduction to American jurisprudence, or as a guide for civic groups and other concerned citizens.

After an introductory chapter, five chapters are devoted to criminal justice. Chapter 2, "Victims of Crime," reviews victimization statistics and other crime rates chronologically, geographically, and sociologically. The leading victims, perhaps surprisingly, are the young, the black, the city dwellers. Chapter 3, "Crime as an Urban Occupation," ventures briefly into criminological theory: causes of crime and characteristics and motivations of offenders. The treatment is oversimple for most readers of this journal, but the author warns of complexities not discussed. He turns then to the police (chapter 4): their duties, selection, pay and supervision, and why they cannot be realistically expected to stop crime. The functions and participants of criminal courts are then taken up (chapter 5), with emphasis on the realities of plea bargaining and the problems of disparate outcomes for comparable cases. A final chapter (6) in this part compares the politics, economics, and sociology of criminal justice in New York, Chicago, Los Angeles, and "Prairie City" (a smaller city studied by social scientists).

Moving on to civil justice, Jacob discusses (chapter 7) "Conflict, the Law, and City Politics," particularly focusing on the work of government agencies and of the bar. He stresses that "[O]rdinary people are often screened out of the legal process . . ." "Dispute Processing in American Cities," chapter 8, analyzes avoidance, negotiation, mediation, and arbitration before coming to adjudication. After looking at small claims disputes and landlord-tenant cases he finds that "the poor are effectively shut out of the adjudicatory process. They can rarely win; they generally lose." The final civil justice chapter (9, "Variations in Concluding Civil Conflicts: A Closer Look at Four Wisconsin Cities") is essentially a reprint of Jacob's mid-1960's work on insolvency and bankruptcy processes. It is able work and relevant to the theme of this book, but the material is stale now, and the author's points would not have been weakened by the chapter's omission. The final chapter (10) ably and concisely summarizes earlier conclusions.

Vienna, Va.

DAVID T. STANLEY

Reports Received

A Chance to Change. The Howard League for Penal Reform, 169 Clapham Road, London, S.W. 9, O.P.U., 1980. Pp. 74. The subject of this pamphlet is the expansion of day care and training centres for offenders. The content consists of several chapters which define the purpose of day care centres, describe the different types of centres, problems of funding, staffing, and management, and the relationship of centres to the courts and the probation service.

Evaluation and Change. Minneapolis Medical Research Foundation, Inc., 501 South Park Avenue, Minneapolis, Minn. 55415, 1980. Pp. 148. This publication is an experimental magazine published as a trial research project by the Program Evaluation Research Center affiliated with the Minneapolis Medical Research Foundation. As a Special Issue, a group of experts provide an array of perspectives on victimization whether by personal violence, natural disaster, terrorism, or war, with special emphasis on the development of policies and goals related to mental health and other services to victims.

The Impact of Increased Population on Disciplinary Incidents. Connecticut Department of Corrections, Research Division, 340 Capitol Avenue, Hartford, Conn. 06106 (no date). Pp. 5, app. 16. A basic correctional belief is that an increase in institutional population causes a proportional increase in the number of inmate disciplinary incidents. This study of reports written at the three large metropolitan correctional centers in each of the three summer months of 1976-79 does not support this belief.

Institutional Violence Reduction Project: The Impact of Changes in Living Unit Size and Staffing. California Youth Authority, Division of Research, Sacramento, Calif., January 1980. Pp. 77. The project results indicate that reduced living unit size and reduced population size is conducive to less negative and violent behavior among the wards and fewer escapes. The project did not determine optimum ward population size or staffing.

Non-Institutional Treatment and Rehabilitation. The National Swedish Council for Crime Prevention, Brotsforebyggande radet, Box 12070, Stockholm, Sweden, 1980. Pp. 95. This publication is a shortened version of a more extensive evaluation of an experiment which began in July 1972 in the Sundsvall probation district. It also gives some information on how a major correctional reorganization has functioned in Sweden as a whole. Among the conclusions and recommendations listed in this publication is the following statement: "This evaluation of the Sundsvall experiment has led to one consistent result: The increased resources in Sundsvall did not promote better client rehabilitation."

An Organizational Approach to Correctional Effectiveness. The Pilgrimage Press, Jonesboro, Tennessee, 1979. Pp. 83. In this monograph, Dr. Kevin Wright of the Department of Criminal Justice, University of Tennessee at Chattanooga, proposes a radically different approach to the evaluation studies of correctional program effectiveness in reducing recidivism. He faults both those who reject the "rehabilitative goal" of corrections and those who have limited their evaluative research to program effectiveness only and have overlooked the importance of the influence of correctional organizations.

Prison Law Monitor. Institutional Educational Services, Inc., 1806 T Street, N.W., Washington, D.C. 20009. Vol. 2, Nos. 8, 9, and 10. February, March, and April 1980. Each of these issues is devoted a specific area of concern to correctional law in addition to the regular features of the

Prison Law Monitor. The February issue focuses on juvenile circumvention of legislative reform; the March issue features several articles on offender classification; and the April issue has a lead article on Enforcing Compliance With Judicial Court Orders.

Probation and Parole. The Prison Journal, 311 S. Juniper St., Philadelphia, Pa. 19107. Autumn-Winter Issue 1979. Pp. 78. This issue of the Prison Journal is devoted to a series of articles dealing with current critical issues in probation and parole. Three of the articles are concerned with problems of supervision of offenders; one discusses the elderly offender and parole; and a third reviews the issues of "just deserts and determinate sentencing and their impact on the rehabilitation ideal."

Program Models: Unification of Community Corrections. U.S. Department of Justice, Washington, D.C. 20531, April 1980. Pp. 164. The preface to this document states that "the purpose of the project conducted by the American Justice Institute was to synthesize the best research, operational experience, and expert opinion concerning correctional reorganization, with an emphasis on consolidation and unification of related functions."

Remembering Forgotten Victims. Crime Prevention Center, Office of the Attorney General, 555 Capitol Mall, Sacramento, California 95814, April 1980. Pp. 21. Beginning in 1977, the California Legislature has adopted a resolution proclaiming the last week in April as "California's Forgotten Victims Week." This publication is in recognition of that resolution and contains a discussion of other efforts to give prominence to victims of crime, such as victims' rights litigation, child abuse, violence in schools, recidivism, and other related problems.

The Squires of San Quentin. Department of the Youth Authority, Division of Research, Sacramento, California, November 1979. Pp. 136. This report publishes the preliminary findings on an experimental study of juvenile visitation at San Quentin. The purpose of the study was to determine the impact of visitation by male, youthful probationers to San Quentin on the attitudes of the participants toward crime and police. The next phase of the study will focus on behavior-change, the number and rate of official arrests.

Understanding and Dealing With Alcoholism. Public Affairs Committee, 381 Park Avenue South, New York, N.Y. 10016, 1980. Pp. 24. This release is No. 580 in the Public Affairs Pamphlet Series. It describes briefly what alcoholism is, possible causes, and methods of treatment. All pamphlets are available at a cost of 50 cents each.

Books Received

Corrections: Problems and Prospects, Second Edition. Edited by David M. Petersen and Charles W. Thomas. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980. Pp. 360.

Crime and Deviance: A Comparative Perspective. Edited by Graeme R. Newman. Beverly Hills, Calif.: Sage Publications, Inc., 1980. Pp. 335. \$9.95 (softcover).

The Criminal Justice and Mental Health Systems: Conflict and Collusion. By Kent S. Miller. Cambridge, Mass.: Oelgeschlager, Gunn & Hain, Inc., 1980. Pp. 131. \$17.50.

Criminology Review Yearbook, Volume 2. Edited by Egon Bittner and Sheldon L. Messinger. Beverly Hills, Calif.: Sage Publications, Inc., 1980. Pp. 733. \$35.00.

Effective Correctional Treatment. Compiled and edited by Robert R. Ross and Paul Gendreau. Scarborough, Ontario: Butterworths, 1980. Pp. 464. \$21.95 (softcover).

The Failure of Imprisonment. By Roman Tomasic and

Ian Dobinson. Allen & Unwin, Inc., 1979. Pp. 157. \$8.50 (paper).

Homicide: Perspectives on Prevention. By Nancy H. Allen. New York: Human Sciences Press, 1980. Pp. 192. \$8.95 (paper).

Introduction to the Administration of Justice: An Overview of the Justice System and Its Components. By Thomas F. Adams. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980. Pp. 41. \$14.95.

The Keepers: Prison Guards and Contemporary Corrections. Edited by Ben M. Crouch, Ph.D. Springfield, Ill.: Charles C. Thomas, Publisher, 1980. Pp. 354. \$22.50.

The Legal Aspects of Prisons and Jails. By Penelope D. Clute. Springfield, Ill.: Charles C. Thomas, Publisher, 1980. Pp. 226. \$21.75.

The Mask of Love: Corrections in America—Toward a Mutual Aid Alternative. By Dennis Sullivan. Port Washington, N.Y.: Kennikat Press Corp., 1980. Pp. 181. \$17.50.

Murder, America: Homicide in the United States From the Revolution to the Present. By Jay Robert Nash. New York: Simon and Schuster, 1980. Pp. 479. \$16.95.

Nonviolent Action and Social Change. Edited by Severyn T. Bruyn and Paula M. Rayman. Somerset, New

Jersey: John Wiley & Sons, Inc., 1979. Pp. 316. \$18.75.

Prisons Education and Work. By John Braithwaite. Queensland, Australia: Queensland University Press, 1980. Pp. 240. \$10.95.

Psychology and Psychiatry in Courts & Corrections: Controversy and Change. By Ellsworth A. Fersch, Jr. Somerset, New Jersey: John Wiley & Sons, Inc., 1980. Pp. 370. \$23.95.

The Role of the Forensic Psychologist. Edited by Gerald Cooke, Ph.D. Springfield, Illinois: Charles C. Thomas, Publisher, 1980. Pp. 409. \$26.50.

Therapeutic Communities in Corrections. Edited by Hans Toch. New York: Praeger Publishers, 1980. Pp. 216.

Toward a Just Correctional System. By Joseph E. Hickey and Peter L. Scharf. San Francisco: Jossey-Bass, Inc., Publishers, 1980. Pp. 202. \$13.95.

When Mothers Go to Jail. By Ann M. Stanton. Lexington, Massachusetts: D.C. Heath and Company, 1980. Pp. 206. \$22.95.

Who Is the Client?—The Ethics of Psychological Intervention in the Criminal Justice System. Edited by John Monahan. Washington, D.C.: American Psychological Association, 1980. Pp. 168. \$7.50.

It Has Come to Our Attention

Professor Manuel López-Rey y Arrojo, member of the United Nations Committee for the Prevention of Crime and for Penal Justice, and a frequent contributor to *FEDERAL PROBATION*, was presented on June 19, during a solemn session at the University of Complutense, Madrid, the Plaque and award of Alfonso X, The Wise. The honor was in recognition of his "notable contribution in the investigation and study of crime and penal reform on an international level."

Joseph P. Hurley, U.S. probation officer in the Southern District of New York, was the first recipient (in March 1980) of the 1979 Charles L. Chute Award presented by the Federal Probation Officer's Association to the outstanding probation officer in the Northeast Region. He was chosen because "he has given unselfishly of his time, talent, expertise and energy to causes which enrich the lives of his fellow officers."

W.H. Pearce, chief probation officer of the Inner London Probation and After-Care Service, London, England, has been appointed Her Majesty's Chief Inspector of Prisons. He will take up his new post on January 1, 1981.

The 10th Annual National Forum on Volunteers in Criminal Justice (theme: "A New Decade—Let's Do It Better") was scheduled to be held October 12 to 15 in Minneapolis. For information about the Forum contact Mark Thornhill, P. O. Box 6365, University, Alabama 35486.

"Standards for Psychology Services in Adult Jails and Prisons" were published in the March 1980 issue of *Criminal Justice and Behavior*, quarterly journal of the American Association of Correctional Psychologists. Reprints of the standards are available, at \$2 each, by sending a check payable to "AACP" to S.W. (Sally) Wing, Ph.D., AACP President, Legal Offender Unit, Western State Hospital, Fort Steilacoom, Wash. 98494.

Robert C. Cushman has been elected president of the

American Justice Institute, a national juvenile justice and criminal justice research organization headquartered in Sacramento, Calif. He has served as executive director of the National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention and directed the first of eight Pilot City Programs as part of a national research and demonstration program funded by the Law Enforcement Assistance Administration.

The University of Alabama has developed a way to provide an opportunity for people employed in criminal justice with minimal time away from the job. Reading and writing assignments are completed at home with periodic visits to the Tuscaloosa campus for short, intense classroom sessions. Further information can be obtained by writing Criminal Justice Program, P.O. Box 6365, University, Alabama 35486, or call (205) 348-7795.

The Center for Responsive Psychology announces the publication of a newsletter entitled *Social Action and the Law*. It translates and compiles social science research for use by people in the legal, correctional, and judicial field. For subscription information write to Professor Robert Buckhout, Center for Responsive Psychology, Brooklyn College, Brooklyn, N.Y. 11210.

California Justice Under Determinate Sentencing: A Review and Agenda for Research, by Albert J. Lipson and Mark A. Peterson, June 1980 (R-2497-CRB) is available at \$5 a copy from: Publications Department, The Rand Corporation, 1700 Main Street, Santa Monica, Calif. 90406.

Public Information Materials for Language Minorities is the title of a new U.S. Department of Justice pamphlet prepared by the National Criminal Justice Reference Service under the sponsorship of the National Institute of Justice. It points out that Hispanics and members of other language groups face major language problems

when they come into contact with the criminal justice system and lists steps that public and private organizations can take to resolve these problems. Single copies may be ordered free of charge, from the National Criminal Justice Reference Service, Box 6000, Rockville, Md. 20850.

Creation of a new Ph.D. program in criminal justice at the John Jay College of Criminal Justice in New York City has been approved and classes were scheduled to begin in the fall of 1981. The program is the only criminal justice doctoral degree in New York City, which has more law enforcement personnel than any other city in the United States. The program has been designed to meet the special problems of crime and delinquency in an urban society. For further information, contact Dean Stead, John Jay College of Criminal Justice, 444 West 56th Street, New York, N.J. 10010. (212) 489-3967.

A call for papers has been made by the Correctional Education Association for their 1981 annual conference in Los Angeles July 5 to 8, 1981. Papers should address theoretical and practical issues in correctional education, including academic, vocational, post-secondary, special community, and other related educational topics. Abstracts (maximum length two pages) will be accepted until January 15, 1981. Accepted participants will be notified by February 15, 1981. Papers in final form will be due May 15. Address all materials and inquiries to: Bruce Wolford, Department of Correctional Services, Eastern Kentucky University, 103 Stratton Building, Richmond, Ky. 40475. (606) 622-1394.

The Fifth Annual Institute of the American Probation and Parole Association was held at the Town and Country Hotel in San Diego, Calif., August 16 and 17. The Institute theme was "Probation and Parole: The 'Can-Do' Profession for the 1980's."

Agencies which have recently received 3-year accreditation awards from the Commission on Accreditation for Corrections (6110 Executive Boulevard, Suite 750, Rockville, Md. 20852) include the following: Adult Probation and Parole Services, Utah Division of Corrections; Division of Adult Field Services, Vermont Department of Corrections; Logan Correctional Center and Menard Correctional Center, Illinois Department of Corrections; New Haven Community Correctional Center, Connecticut Department of Corrections; Connecticut Correctional Institution at Enfield; New Jersey Adult Diagnostic and Treatment Center in Avenel; New Jersey Bureau of Parole; Federal Community Treatment Center, Oakland, Calif.; Federal Community Treatment Center, Phoenix, Ariz.; Colorado Women's Correctional Facility in Canon City; California Men's Colony at San Luis Obispo; Joseph Harp Correctional Center and Lexington Assessment and Reception Center (both administered by the Oklahoma Department of Corrections); Maryland Parole Commission; Minnesota Corrections Board; Minnesota Correctional Facility at St. Cloud; and Federal Community Treatment Center, Detroit, Mich.

Assaults on Women: Rape and Wife Beating, by Natalie Jaffe, is No. 579 in the Public Affairs Pamphlet series. It is available for 50 cents from the Public Affairs Committee, 381 Park Avenue South, New York, N.Y. 10016.

A defendant should have the right to request a change of judge if he believes the judge will not afford him a fair trial, the American Bar Association told Congress in June. At House Judiciary subcommittee hearings, ABA spokesperson John J. Cleary called on Congress to amend the Federal Rules of Criminal Procedure to permit a one-time defense challenge to a Federal judge in a crim-

inal case. The procedure would be limited to districts in which there are three or more judges.

Chief Probation Officer Robert E. Long of the Pima County (Arizona) Adult Probation Department reported in June that budget restrictions—which caused the loss of 13 probation personnel—produced a significant increase in the investigation and supervision caseloads during 1979. In spite of only a 1.46 percent increase in cases assigned the Supervision Unit, the total caseload increased by 17.9 percent, Long said. There were 2,292 persons under probation supervision, which is an average caseload of 104 probationers per officer (almost three times greater than the nationally recommended caseload of 35). The Investigation Unit experienced a 5 percent increase in its presentence investigation caseload, even though the number of cases investigated decreased by 1 percent.

Ruth L. Rushen became director of the California Department of Corrections in April. Former vice chairperson of the Board of Prison Terms, she succeeded Jerry Enomoto who had served since 1975. Director Rushen has announced the following three appointments in the Department: Samuel Yockey, executive director of Atascadero State Hospital, has been named chief deputy director; Bob Fugina, chief of staff services for the Department of Social Services, has been appointed deputy director heading the newly formed management services division; and Richard L. Camilli, former director of the State Employment Development Department and a former executive officer of the State Personnel Board, has been selected as chief of personnel services.

The Organized bar must take a leadership role in helping modernize the juvenile courts, according to American Bar Association President Leonard Janofsky. Speaking at an Institute of Judicial Administration breakfast meeting on June 10, he said that substantial changes are needed in the juvenile justice system to ensure fairness and due process and he called on the legal community to actively support and work for implementation of the IJA-ABA approved Juvenile Justice Standards. For information on the standards, contact the Criminal Justice Section, American Bar Association, 1800 M Street, N.W., Washington, D.C. 20036. (202) 331-2260.

The number of prisoners on death row increased by 103 during 1979 and reached a near record total of 567 men and women, the Bureau of Justice Statistics announced in June. The execution of one prisoner each in Florida and Nevada during 1979 marked the second and third times that the death penalty has been carried out in the United States since 1967. Three women were condemned to death during 1979, according to the advance report on capital punishment for 1979, and one was removed from death row, bringing to seven the total number of women under sentence of death at the year's end. Single copies of "Capital Punishment 1979: Advance Report" are available free of charge from the National Criminal Justice Reference Service, Box 6000, Rockville, Md. 20850, as are detailed findings in the report "Capital Punishment 1978."

John C. Klotter, dean of the School of Justice Administration at the University of Louisville since 1971, will retire as dean effective June 30, 1981. Klotter's career with the University, which began 23 years ago, will continue as he retains his professorship within the School. "Dean Klotter's leadership has given the School of Justice Administration a reputation as one of this country's finest schools for law enforcement and corrections students," said Dr. Herbert Garfinkel, vice president of academic affairs. "The University has been fortunate to

have John Klotter as dean, and will be equally fortunate to have him remain as a faculty member after he leaves the deanship."

Edward S.G. Dennis, Jr., a deputy chief in the criminal division of the U.S. attorney's office in Philadelphia, has been appointed chief of the Narcotics and Dangerous Drug Section of the Department of Justice Criminal Division, Philip B. Heymann, Assistant Attorney General in charge of the Division, announced in June. Dennis succeeds Alexander H. Williams, III, who has become chief assistant U.S. attorney in Los Angeles, Calif.

Thefts of personal and household property show strong seasonal patterns, in contrast to violent crime such as assault and robbery, according to a recent Bureau of Justice Statistical report. The most common pattern is a peak in the summer and decline in the winter. The report, "Crime and Seasonality," is the first attempt to analyze the issue employing the large National Crime Survey sample. Its principal findings are that seasonal influences are particularly evident in household larceny, thefts of less than \$50, and unlawful-entry burglary. Other crimes with less pronounced seasonal patterns are thefts of more than \$50, forcible-entry burglary, assault, and motor vehicle theft, the report noted, adding, "personal robbery showed no evidence of seasonality." Individual copies of the report, which was written for BJS by the U.S. Bureau of the Census, may be obtained from the National Criminal Justice Reference Service, Box 6000, Rockville, Md. 20850, as are more detailed findings from the National Crime Survey: "Criminal Victimization in the U.S.: A Description of Trends From 1973-77" and "Criminal Victimization in the U.S.: 1977."

The 1981 annual meeting of the Academy of Criminal Justice Sciences (ACJS) will be held March 18 to 21 at the Benjamin Franklin Hotel in Philadelphia. The theme of the conference, "Contemporary Issues in Criminal Justice: Problems and Prospects" is the basis for the program which will include plenary sessions, colloquia, workshops, roundtables, and panels relating to contemporary issues in the field. Inquiries should be directed to Roy R. Roberg, Program Chairperson, Administration of Justice Department, San Jose State University, San Jose, Calif. 95192. (408) 277-2993.

The Criminal Justice Center at Sam Houston State University in Huntsville, Texas, is the recipient of a \$500,000 award from Houston Endowment, Inc., a philanthropy endowed by Mr. and Mrs. Jesse H. Jones to establish the George J. Beto Chair of Criminal Justice. The endowment will be invested and its income used for salary of outstanding criminal justice academic professionals appointed to visiting professorships. The endowed chair was named in honor of Dr. George J. Beto, former director of the Texas Department of Corrections who, since his retirement from TDC in 1972, has served as a distinguished professor in criminal justice at the Criminal Justice Center, and for a year as interim director of the Center.

The American Medical Association, with the cooperation of the American Correctional Health Services Association, is holding its Fourth National Conference on Medical Care and Health Services in Correctional Institutions in Chicago at the Radisson Hotel on October 24 to 25. Conference theme is "Health Care in Correctional Institutions—Directions for the Eighties."

Three experimental Neighborhood Justice Centers have been largely successful in resolving minor disputes and "appear to handle most interpersonal cases more efficiently than the courts," according to a report released in

July by the National Institute of Justice. The final evaluation report, done by the Institute for Social Analysis, Reston, Va., under contract to NIJ, reviewed the results of 15 months of operations at the centers in Atlanta, Ga., Kansas City, Mo., and Los Angeles, Calif. The centers provide a speedy, low-cost alternative to the courts to settle relatively minor citizen disputes through mediation and arbitration. Typical cases include domestic assault and harassment, family quarrels, neighborhood nuisances, landlord-tenant disputes, consumer-merchant disagreements, and employee-employer disputes. The report said the centers handled a "sizable" number of cases (3,947), and that nearly half of them were resolved. Six months later, the evaluation found, "the large majority of disputants reported that the agreements still held and that they were satisfied with the process." Single copies of the report, "Neighborhood Justice Centers Field Test, Final Evaluation Report," are available free from the National Criminal Justice Reference Service, Box 6000, Rockville, Md. 20850.

The Social Action Research Center has been awarded 1-year grants from the National Institute of Corrections to conduct two studies—one dealing with offender participation in correctional roles and the other dealing with correctional programs for women. The first study will survey programs that utilize offenders as a correctional resource, both in institutions and community-based agencies. Examples include the use of offenders as probation aides, peer counselors in prerelease programs and halfway houses, and the participation of inmate advisory councils in prison management. The second project will survey the level and variety of correctional programming for women. Issues to be explored include equal access for women to programs and services in the criminal justice system and correctional needs unique to the female offender. This project updates and expands upon an earlier study by Ruth M. Glick and Virginia V. Neto, National Study of Women's Correctional Programs (Washington, D.C., NILECJ, 1977). Inquiries should be directed to Virginia V. Neto, Projects Director, Social Action Research Center, 18 Professional Center Parkway, San Rafael, Calif. 94903. (415) 472-2800.

Who Is the Client? The Ethics of Psychological Intervention in the Criminal Justice System is the complete report of the American Psychological Association Task Force on the Role of Psychology in the Criminal Justice System. It addresses both the questions of loyalty and competence while focusing specifically on the ethical issues that arise from work with the police, courts, corrections, and the juvenile justice system. The book includes the originally commissioned background papers, as well as data from a national survey of psychologists working in the criminal justice system. Copies of *Who Is the Client?* are available at \$7.50 each from the American Psychological Association, Order Department, 1200 Seventeenth St., N.W., Washington, D.C. 20036.

Deputy Attorney General Charles B. Renfrew lead a United States delegation to the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, August 25 to September 5 in Caracas, Venezuela. The delegation was composed of 26 U.S. Government officials and other criminal justice experts. Topics scheduled to be considered at the Congress were: crime prevention, juvenile justice, crime and the abuse of power, deinstitutionalizing convicted offenders, and U.N. guidelines in criminal justice. The Congress has convened every 5 years since 1955 to consider matters of common international interest and to guide the U.N.'s worldwide activities.

Legislation authorizing compensation of crime victims has passed in 29 states and more than a dozen foreign countries, and, according to a new study financed by the National Institute of Justice, the concept is expanding. The study, "Crime Victim Compensation," by Abt Associates of Cambridge, Mass., encompasses indepth field studies at the New York Crime Victims' Compensation Board, Maryland Criminal Injuries Compensation Board, Delaware Violent Crimes Compensation Board, and Washington (State) Crime Victims Compensation Division. Extensive information was taken from 19 other program sites. The report covers the policies of victim compensation programs, their structures and operations, claims procedures, costs, sources of funding, and such matters as interagency agreements and public awareness and education programs. Copies of "Crime Victim Compensation" are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The stock number is 027-000-00889-5. The price is \$6 per copy, prepaid.

The 1980-81 edition of *The Law Officer's Pocket Manual*

which is specifically designed to provide law enforcement officers with an operational knowledge of current constitutional law requirements, was scheduled for publication on October 1 by BNA Education Systems, a division of The Bureau of National Affairs, Inc. Written and updated annually by lawyer-editors with extensive experience as law enforcement instructors at the Federal, state, and local levels, the Manual is based primarily on the decisions of the United States Supreme Court. It is available from BNA Education Systems, 1231 25th St., N.W., Washington, D.C. 20037, at \$5 a copy.

The Bureau of Justice Statistics has published a "Sourcebook of Criminal Justice Statistics, 1979." The book is an 850-page compilation of data, such as the nature and distribution of criminal offenses, the characteristics of arrested persons, the court processing of defendants, and a description of correctional system inmates. The report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price is \$13 a copy, prepaid. The stock number is 027-000-00834-8.

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Federal Probation



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- Children of the Holocaust and Their Relevancy to Probation:
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- Practical Probation: A Skills Course
Understanding Alcoholism and the Alcoholic Offender *Gloria Cunningham*

DECEMBER 1980

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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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This Issue in Brief

Prisoners' Rights Litigation: A Look at the Past Decade, and a Look at the Coming Decade.—A number of startling changes have occurred in the prisons during the 1970's, according to Richard G. Singer, professor of law at Rutgers University. The question he explores in the first part of his article is whether these changes are attributable, in whole or in part, to the prisoners' rights movement, and specifically the litigation arm of that movement. In the second part he discusses the impact the recent Supreme Court case of *Bell v. Wolfish* will have on prison litigation in the future.

Children of the Holocaust and Their Relevancy to Probation: Presentence Investigations and Case Planning.—Federal Probation Officer Stephen L. Wishny of Los Angeles suggests that a social history of parent or parents as survivors of the Holocaust, or survivors of like social trauma, might provide an additional element in explaining defendant behavior and developing treatment plans. His article reexamines a presentence investigation in the light of recent research in the field of Holocaust survivor psychology and discusses casework planning from the same perspective.

Managing the Interorganizational Environment in Corrections.—In the face of declining governmental and public support for human service programs, correctional administrators will be required to do more with fewer resources, asserts Dr. Ronald I. Weiner, associate dean of The American University School of Justice. One approach for becoming more competent in the management of scarce resources is the necessity for understanding interorganizational problems in corrections and designing effective strategies to overcome them, he maintains. Management training in corrections would be wise to expand its knowledge base beyond concern for the administration of personnel and programs internal to the organization. Future training needs will require

both knowledge and strategies for more effectively negotiating favorable relationships with other organizations in the task-environment, he concludes.

Fines as an Alternative to Incarceration: The German Experience.—Although many issues of correctional reform have been discussed and debated in the United States during the last decade, the potential role of financial penalties (fines) is not among the issues raised. This omission, according to Professor Robert W. Gillespie of the University of Illinois, stands in sharp contrast to similar discussions and policy innovations in Europe regarding fines. The innovations in recent German penal policy and practice in the use of fines is reviewed and contrasted to the role accorded fines in selected United States courts.

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Assessing Parole Violation Rates by Means of the Survivor Cohort Method.—The examination of parole violation statistics will invariably show a larger number of parole violators each month during the first year or so of parole as compared to the number of violators during the latter parole periods. Two reasons could account for this. Either the probability of violation is highest during the immediate postrelease period, or the number of parolees "at risk" is greater thus providing a larger pool of possible violators. The purpose of this article by George F. Davis, supervisor of information systems for the California Youth Authority, is to present additional data relating to the issue of whether the early months on parole are the most risk-prone.

Purchasing Services in a Community-Based Juvenile Corrections System: The Ohio Experience.—Despite the widespread practice of state juvenile corrections agencies contracting with private agencies to provide residential and social services, there is little in the literature concerning what is needed to develop and maintain a successful purchase of service system, writes Don G. Shkolnik, community residential services administrator for the Ohio Youth Commission. A review of the strengths and weaknesses of such a system is the backdrop against which the Ohio Experience is examined.

His Day in Court.—Frederick Greenwald, executive director of International Probation and Parole Practice, believes that sentencing the alien offender is as vital a part of the judicial process as the sentencing of a citizen or long-time resident. It may have far-reaching effects both on the individual and the na-

tions, not to mention the families involved. He states that when economic and social costs and values are weighed, the balance favors providing equal rights to the alien offender and an equal opportunity to the court to have benefit of full and complete knowledge of the offender when considering the sentence to be imposed.

Patterns of Probation and Parole Organization.—Organizational relationships between programs providing services to mutual clients have a critical impact on the timeliness and quality of those services, according to authors Charles L. Johnson and Barry D. Smith. Their article discusses the impact on services of organizational relationships among probation, parole, and correctional functions. At issue is the compliance of each state with specific portions of standards recommended by the National Advisory Commission on Criminal Justice Standards and Goals.

Understanding Alcoholism and the Alcoholic Offender.—Alcoholism is a major national health problem in the United States. Its costs to American society in terms of mortality, economic loss, and social and emotional disturbance are escalating. Current research evidence indicates that there is a basis for optimism in treating the alcoholic when the focus of treatment is on alcoholism as a primary disease entity rather than as a symptom of an underlying emotional disturbance or inter-personal problem. This article by Professor Gloria Cunningham of Loyola University of Chicago discusses the implications of emerging knowledge about alcoholism for criminal justice practice.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.

Prisoners' Rights Litigation: A Look at the Past Decade, and a Look at the Coming Decade

BY RICHARD G. SINGER

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PART I

AFTER a decade of prisoners' rights litigation, it seems propitious to assess the impact of the litigation upon prisons. In the past decade, courts have had to balance the task of protecting the rights of individual prisoners with the task of protecting inmates both from each other, and from arbitrary decisions by correctional administrators which typified the prison system in the preceding years. What have been the gains and losses of that litigation? How can we evaluate this decade of judicial intervention in the prison setting? And what is the likely future of the litigation movement?

It seems clear that a number of startling changes have occurred in the prisons during the 1970's (even though many would argue that prisons remain essentially as inhumane, oppressive, and class oriented as they ever were).¹ The question I wish to explore in the first part of this article is whether these changes are attributable, in whole or in part, to the prisoners' rights movement, and specifically the litigation arm of that movement. I shall sketch some of the changes which I think have occurred in the past 10 years, and whether litigation has been responsible for them.

At least two things, I think, need to be said initially about the judicial involvement in corrections which began in the late 1960's, in part because there is always a tendency to forget the obvious. First, courts did not enter the arena of corrections willingly and gleefully, looking for some way to castigate prison administrators.

For over a century, courts had consistently refused to consider any complaint by a prisoner about the conditions of his confinement; they had taken the well-known "hands off" position. A prisoner was, in the words of one court, "the slave of the state," beyond the pale of judicial, or indeed legal, assistance. Courts had deferred to the assumed ex-

pertise of prison administrators. It was only when the complaints began to detail conditions so crass, so gross, as to shock the minds of all decent people that the courts became involved. It may be useful to recall the conditions in one solitary confinement cell in one state, which prompted the first significant prison conditions case, *Jordan v. Fitzharris*:²

During plaintiff's confinement in said strip cell, plaintiff was forced to remain in said strip cell with said flaps and door of the second wall closed. As a result, plaintiff was deprived of light and ventilation for twelve days, except that twice a day the door of the second wall was opened for approximately fifteen minutes.

The interior of said strip cell is without any facilities, except that there is a raised concrete platform at the rear of the cell containing a hole to receive bodily wastes. There is no mechanism within the cell for "flushing" bodily wastes from this hole. "Flushing" is controlled by personnel of the Correctional Training Facility from the exterior of said strip cell. The hole was only "flushed" at approximately 8:30 a. m. and 9:00 p. m. on some of the twelve days plaintiff was confined in said strip cell.

During plaintiff's confinement in said strip cell, the strip cell was never cleaned. As a result of the continuous state of filth to which plaintiff was subjected, plaintiff was often nauseous and vomited, and the vomit was never cleaned from the plaintiff's cell. When plaintiff was first brought to the strip cell, the floor and walls of the strip cell were covered with the bodily wastes of previous inhabitants of the strip cell. Said strip cell had not been cleaned for at least thirty days before plaintiff was confined therein.

Plaintiff was forced to remain in said strip cell for twelve days without any means of cleaning his hands, body or teeth. No means was provided which could enable plaintiff to clean any part of his body at any time. Plaintiff was forced to handle and eat his food without even the semblance of cleanliness or any provision for sanitary conditions.

For the first eight days of plaintiff's confinement in said strip cell, plaintiff was not permitted clothing of any nature and was forced to remain in said strip cell absolutely naked. Thereafter, plaintiff was given a pair of rough overalls only.

Plaintiff was forced to remain in said strip cell with no place to sleep but upon the cold concrete floor of the strip cell, except that a stiff canvas mat approximately 4½ feet by 5½ feet was provided. Said mat was so stiff that it could not be folded to cover plaintiff without such conscious exertion by plaintiff that sleep was impossible. Plaintiff is six feet and one inch tall and could not be adequately covered by said stiff canvas mat even when holding said mat over himself. The strip cell was not heated during the time that plaintiff was forced to remain there.

Second, corrections was not the only, and in fact not even the most important, area into which judicial review probed. The era of the 1960's reawakened all of us, including judges, to the vast uncharted discretion which we had delegated to per-

¹ This question is for another day; by mentioning the substantial reforms which have occurred in prisons, I do not intend to be taken as suggesting that these reforms necessarily have made prisons acceptable. That they have—or would have absent other events—made prisons more liveable, at least for those confined to them 24 hours a day, seems clear.

² 237 F. Supp. 674 (M.D. Cal. 1966).

sons claiming to be experts. Schools, mental hospitals, the military, and many other institutions were all subjected to the light of impartial evaluation. All these institutions were found wanting. The current reevaluation of discretionary sentencing shows that this concern continues but in prisons, perhaps more than any other area, obstinacy and contempt for judicial scrutiny was more widespread.

That may in part be a result of a misunderstanding of what judicial review is, and why it is critical to any system which purports to follow the rule of law. Judge David Bazelon perhaps put it better than anyone has:³

Not only the principle of judicial review, but the whole scheme of American government, reflects an institutionalized mistrust of any unchecked and unbalanced power over essential liberties. That mistrust does not depend on an assumption of inveterate venality or incompetence on the part of men in power, be they Presidents, legislators, administrators, judges, or doctors. It is not doctors' nature, but human nature, which benefits from the prospect and the fact of supervision. . . . Judicial review is only a safety catch against the fallibility of the best of men; and not the least of its services is to spur them to double-check their own performance and provide them with a check-list by which they may readily do so.

One commentator has put it this way:⁴

In the short run . . . there may be a perception of harassment, intrusion, and usurpation. The interventions of the law would never have occurred in the first place had . . . professionals regulated and monitored themselves and their institutions, although in many cases they were powerless to do so, and defended evils not of their own making. In any event, effective self-regulation is extraordinarily difficult for all. Because it cannot effectively be accomplished the law must, in some cases, intervene and provide protections and safeguards that would otherwise not be forthcoming. . . . This requires openness of mind, an abandonment of defensiveness, and a preparedness to modify and even give up long-established practices and perspectives that are no longer valid.

These words fit corrections precisely. But they are written NOT to correctional administrators, but to those who manage mental health facilities; once again, the point is that judicial intervention is not limited to corrections, and the message of judicial review cuts across professional borders.

Let me now outline some of what I believe are the more salient changes in prisons in the past decade.

(1) *The involvement of other disciplines in prison reform.* Surely one of the most dramatic events in the 1970's was the growth of the kinds of persons and national organizations concerned with prison reform. The bar was obviously high on this list, with the creation of the American Bar Association's Commission on Correctional Facilities and Services, and the recent report of the ABA's Standards

Relating to the Legal Status of Prisoners. While the general movement for legal reform in all areas provided some of the impetus to these activities, the prisoner litigation movement, a movement in which and with which lawyers felt comfortable, was a prime genesis.

Another involvement of lawyers was the promulgation of the *Model Sentencing and Corrections Act* proposed by the National Conference of Commissioners on Uniform State Laws. As the name of the organization suggests, it comprises only lawyers. This effort is unquestionably a response to the growing recognition by lawyers of the part which law, and the case decisions, play in penal reform.

A second major national organization which has become involved in prison reform is the American Medical Association. Here, too, the litigation arm played its part. The original AMA survey of jails, in 1973, was sparked in some measure by the need of lawyers, including litigators, for information about medical conditions in penal institutions; the ABA Commission helped the AMA in its initial survey. Since then, that organization, both with ABA consultation and on its own, has delved deeply into that field. As a result, other medical disciplines and organizations, such as the American Psychiatric Association, have similarly become involved and have proposed, among other things, national standards relating to their field, applied to correctional facilities. Medical conditions in prisons and jails have unquestionably improved as a result.

(2) *The development of grievance mechanisms, prisoner councils, etc.* In 1967, the President's Crime Commission called for a "collaborative" prison, in which decisionmaking would be shared by administrators and prisoners. We are, of course, nowhere near that point, but it is certainly true that the development of grievance mechanisms, which characterize most state prisons today, as well as the establishment of ombudsmen, prisoner councils, or other devices by which minor concerns of prisoners may be resolved is at least partially an attempt by correctional administrators to preclude litigation. It is possible that these devices might have been created, in some prisons, even in the absence of the litigation movement, but it is similarly no overstatement to say that the growth is due in some part to lawyers. Indeed, the Center for Correctional Justice, which devised some of the prototypes for grievance machinery, was headed by two lawyers, Linda Singer and Ronald Goldfarb.

(3) *Changes in mail correspondence, visitation, facility tours, and other mechanisms by which the prison is more publicly accessible and visible.* This, I

³ *Cockington v. Harris*, 419 F. 2d 617 (D.C. Cir. 1969).

⁴ Brooks, "The Impact of Law on Psychiatric Hospitalization: Ombudsman or Inquisitorial Reform?", in 4 *New Dir. for M.H.S.* (1979).

think, is almost entirely a result of litigation. Again, some of the rules which were changed were so ludicrous as to warrant belief that they would have fallen with the change of administrations which were presaged by the 1960's. But certainly contact visitation, now generally held to be a constitutional right at least for pretrial detainees,⁵ as well as relaxation of the general rules relating to correspondence,⁶ can be attributed to litigation.

Additionally, through both litigation, and through the efforts of the United States Bureau of Prisons, sparked in large part by James Bennett, and continued by the present director, Norman Carlson, many Federal judges have toured both Federal and state facilities, returning with a better awareness of the institutions to which they send prisoners. Some states—such as New Jersey—have undertaken similar efforts to increase both judicial and public interest and awareness of the prison system.

This increased visibility is, perhaps, the single most important change which has occurred in prisons, for it makes all within the facility—inmates as well as guards and administrators—responsible for their acts in a way which was simply not true before. The suspicion that the Bastille walls were built to keep others out, rather than inmates in, remains; but the possibilities of exclusion are unquestionably reduced from a decade ago, and manifestly for the better.

(4) *The disappearance of "strip cells."* Again, the conditions in strip cells were so anomalous that any new type of administration would have found difficulty continuing them. But it remains true that the widespread disappearance of such cells is the legacy of litigation.

Many would argue that this change—indeed perhaps all the changes I will discuss—is cosmetic only; that the "administrative segregation" and "punitive segregation" cells which have generally replaced "solitary" are little better than their predecessors. And if one thinks of the restrictions still placed upon persons in that type of confinement, there is some justification for that view. Nevertheless, I dissent. Even if prisoners chafe at administrative segregation, even if prisoners' rights advocates would prefer to see amelioration of some of the harshness of those conditions and restrictions as well, the fact is that the days of the "solitary" are by and large gone.

(5) *The "bureaucratization" and regularization of the prison.* I borrow this phrase, and some of the ensuing thoughts, from Professor James Jacobs of Cornell, one of the outstanding social analysts of the structures that are prisons. As Professor Jacobs demonstrates compellingly in his book, *Stateville*, old-line wardens found it increasingly difficult to deal with litigation and the changes that it brought, particularly the challenge to the previously total hegemony they had wielded.

Perhaps one archetype of this phenomenon was a former chairman of the United States Parole Board. When challenged in court to explain the denial of permission to a parolee of the right to travel to California to deliver a speech, the chairman simply refused to appear in court, thereby assuming his defeat, and sparking Judge Marvin Frankel to castigate him openly in a public, written opinion.⁷

So, many of the old-liners left. And in their place came persons who, even if they had "worked their way up" in the ranks, were primarily bureaucrats, who sought to govern if not by consensus at least by acquiescence. Furthermore, as Jacobs points out, litigation required defending prison rules and regulations, which in turn required that (1) there be rules and regulations, and (2) that records be kept of the implementation and application of these rules. Bureaucrats feel comfortable with these notions; the previous school did not.

This aspect of the effect of litigation—the regularization of prison practices—has many beneficial results. Prisoners know, more clearly, what is expected of them. They know, at least in many systems, the penalties which may be imposed for violation of the rules. Unlike the situation 10 years ago, when any violation could—and often did—result in any sanction prison officials wished to impose, many prisons have established a schedule of violations and proportionate punishments. Furthermore, regularization also requires prison officials to more carefully consider the actual interests they seek to protect, and the precise mechanisms by which that protection may be achieved. This in itself has resulted in the change of some prison regulations, as well as the rethinking of the rationale of many prison rules.

Consequently, many arbitrary rules have been abolished. One such example often haunts me. In a mid-Western prison, I saw a prisoner sentenced to 5 days solitary confinement because he had sat on a bench in the yard. There was a rule—no one sits on the bench.

Only prodding by the Governor's Commission, which was visiting the prison that day, uncovered the "reason" for the rule: some 10 years prior, the

⁵ See, e.g., *Rosen v. McQuinn*, 527 F.2d 1041 (2d Cir. 1975); *Jordan v. Wolff*, 460 F. Supp. 1040 (E.D. Wis. 1978).

⁶ E.g., *Procunier v. Martinez*, 416 U.S. 396 (1974).

⁷ It may be no mere coincidence that it was Frankel's book, *Criminal Sentences*, which spawned the way for sentencing reform in the Federal system and which may yet, as a byproduct, result in the abolition of the United States Parole Commission.

bench had been painted, and the rule had been established that no one should sit on the wet bench. The bench had dried, but the rule had remained intact. The prisoner was ultimately exonerated; he did not serve his 5 days in solitary. But more importantly, prison officials removed that rule from the books. Perhaps it would not have happened had we not been there, and had we not had the implicit power of the Governor's office behind us. But I suspect that many such rules—"vicious eyeballing" was one which always fascinated me—have been removed from the books. The millenium has not yet been reached (there are still regulations which vaguely prohibit innocuous offenses, such as "cursing" or "talking"), but I think it clear that the path toward rationality is by now well trod.

It would be at least penultimate folly to suggest that this evolution of bureaucracy might not have occurred in any event. Time alone would have required the replacement of the oldlines warden with someone, and in this age of increasing bureaucracy, LEAA funding, SLEPA's, and governmental red tape, it is possible that only the type of prison administrator whom Jacobs has in mind might have survived in an event.⁸ But it is at least arguable, I believe, that the litigation movement acted as a catalyst to this movement, and hastened the day for the regularization of the prison system.

(6) *The growth of judicial remedies.* Finally, I would add to this list the development in prison litigation of substantial new, and newly invigorated, remedies. I refer, of course, to masters, monitors, human rights committees, etc. There is now a modest debate in the legal literature over whether these remedies are new or only newly resuscitated,⁹ but it surely cannot be doubted by anyone that the remedies, whether new or old, are now more visible than had previously been the case. That a Federal court should appoint a state governor as the

receiver for the state prison system is, remarkable. To lawyers the important point is not whether these remedies are good or bad. The critical aspect is the strong likelihood that the prison institution litigation which has occurred in the past decade will encourage courts in other areas to use more incentive to mold remedies. That is "new blood," even if it is "old blood."

I would count each of these changes as benefits, which the prison litigation movement has brought or a least helped bring about. But there are also, I think, some changes, at least partially the result of the movement, which have been substantially detrimental, even to the prisoners themselves.

(1) *The increasing politicization of prisoners.* Prisoners have never loved their keepers. And, in the age of minority rights, in light of the grossly disproportionate numbers of minorities who are confined in prisons,¹⁰ it would be unthinkable naive to expect that they would love them even as much as they did in the 1940's. But even with this said, and even if the antagonism is understandable and justifiable, it is surely not unfair to suggest that litigation, which thrives on the establishment of adversariness, has added to this "we-they" relationship. To be sure, as I have suggested, mechanisms have been devised to reduce this tension as well; but it is at least arguable that there has been a darker side to the effect of litigation.¹¹

(2) *The growth of prison guard unions.* The litigation movement is sometimes charged with some responsibility for the growth of prison guard unions. Whether correctional administrators count this ultimately as a gain or a loss, they clearly often count it as a nuisance. And surely to the extent that guards complain that they are "the only ones without rights," and seek to change this unionization, the litigation arm of the prisoner movement can be seen as a causal factor.

It is very likely that this would have occurred in any event. The growth in every governmental system of public employee unions has been explosive in this decade; there is no reason to think that the prison would have been impregnable forever. I am made even more wary of crediting—or blaming—the litigation movement in this country for the guards' unions, by a recent commentary on prison reform which declared that, among the obstacles to prison reform was the "collective hostility of prison officers, angry as never before over their pay and conditions and incensed over what they see as the preferential treatment given to prisoners." That would seem to fit the current American situation like a glove—except that it is a comment on English prisons,¹² in which there has

⁸ See also Alexander, "The New Prison Bureaucrats and the Court: New Directions in Prison Law," 56 Tex. L. Rev. 501 (1978).

⁹ See Brakel, special Masters in Institutional Litigation, 1979 Am. B. F. Res. J. 543; Eisenberg and Yeasell, The Ordinary and Extraordinary in Institutional Litigation, 93 Harv. L. Rev. 465 (1980); Special Project, The Remedial Process in Institutional Reform Litigation, 78 Colum. L. Rev. 784 (1978).

¹⁰ This is a slightly qualitative, but mostly quantitative, judgment. While there is some evidence that there is some racial discrimination in sentencing, the quantitative disparities arise from differential prosecution, i.e., prosecuting robbery and burglary instead of embezzlement and computer fraud. This differential may be well justified, indeed expected, by all; but to prosecute crimes which will be committed almost solely by the poor, in which disproportionate numbers are minorities, inevitably results in the observed disproportions.

¹¹ In other areas of the law, this is obvious. Even in divorce cases, for example, the litigative struggle intensifies the difficulties between the parties. Because the litigation is short-lived, and thereafter each party may go her/his separate way, the tension created is offset by the gain of objectivity and justice. But when the parties do not go their separate ways, but return to the arena, the residual effect is more worrisome.

¹² Zellick, The Case for Prisoners' Rights in J. FREEMAN, PRISONS: PAST AND FUTURE 105, 116 (1978). See also, Thomas, "A Good Man for Gaoler?" Crisis, Discontent and the Prison Staff, *id.* 53.

been virtually no litigation, and relatively little legal movement of any kind, toward affirming that prisoners have legal RIGHTS. Thus it may simply be that, for other reasons, the perceptions of prison line officers have changed over the past 20 years, albeit perhaps aggravated by the fact of being brought into court as well as into the captain's office.

I count these aspects as deleterious side-products of the prisoners' rights movement, including the litigation part of that movement. I suspect—at least I hope—that they are temporary setbacks, and that we will move, in the 1980's, toward that "collaborative institution" which the 1967 Crime Commission envisioned and paeonized. But there is no doubt that these developments have increased the difficulty of prison management and, indirectly at least, heightened the dangers inherent in living in prison.

Lawyers are also sometimes blamed for the increase in violence allegedly occurring in prisons. There are several responses to this charge. First, there is not really much hard evidence to support, or to disprove, the allegations of prison administrators that the prisons are becoming more violent. There is also a suspicion that the fears may be exaggerated. One remembers that in the 1960's prison authorities were holding the bastion against the Muslims, who became in the 1970's at least tolerable allies in keeping the peace. Moreover, since administrators for many years kept no records of such violence, whether inmate-inmate, inmate-guard, or guard-inmate, there is no basis for meaningful comparison. Furthermore, again because the information is still solely within the control of prison administrators, any statistical evidence would be, at the very least, suspect. And the few total assessments that are made are far too easily dismissed, or at least dismissable.

Still, one cannot totally reject the anecdotal accounts of gang violence, and racial warfare, which are continually brought to us by both prisoners and correctional personnel. And to some degree, lawyers must recognize that their litigation has added to this. Everytime a gang member is released from disciplinary segregation because his punishment was imposed without a due process hearing, everytime a prisoner is allowed to carry a religious medal, everytime a strip search is foregone because of a fear of an adverse court decision, two things occur: (1) The prisoner may become too convinced of his own power and the lack of power of correctional personnel; (2) a risk of serious danger is posed to all

within the correctional institution, including, most obviously, other prisoners.

Some lawyers might respond to this charge that it is speculative—that the danger might not ever eventuate. And, of course, to the extent that the initial disciplinary sanction was an "exaggerated response," this is a fair rejoinder. Or, it could be argued, on a more abstract level, that if the injury occurs, it is because of the prison environment, rather than the prisoner. This is persuasive only if one believes that guns, and not people, kill.

No. Lawyers cannot so easily avoid the truth of the charge which administrators level at them—that they unleash the potentiality of danger and then leave the management of that danger to others. The proper response is not only to acknowledge the accuracy of this charge, but to embrace it affirmatively. Lawyers are trained expressly to ignore such imputations. We represent—to the best of our ability, and not halfheartedly—those we KNOW to be guilty of criminal acts; professional ethics demand nothing less. Indeed, everytime a lawyer attacks power, wherever situated, a potential of risk to the community is created. But that is one of the main functions of law, and is particularly the function of law in a democracy. As Justice Marshall recently put it,¹³ democracy is inherently a risk-taking institution. Even more than most governmental forms, democracy takes chances in exchange for freedom. Sometimes the gamble does not appear to pay—lives are lost, persons injured. But it is the faith, not simply of lawyers, but of all of us, that in the long run that gamble will prove more beneficial than detrimental.

The problem, of course, is that prison administrators, like the rest of us in our "real" lives, live in the short-run. Rhetoric about the long-run does not bandage wounds or console survivors. But rather than blame lawyers for attempting to bring the long-run to prisons, correctional administrators should at least occasionally step back and look at the long-run with us. I have heard many in corrections bemoan the fact that their previous training, in social work, management, etc., has prepared them little for the day-to-day operations of a prison. They, and other administrators, should go to the well of the long-run for refreshing, to consider (or reconsider) not what to do about tomorrow's count, but to think of what person 50, 75, 100 years from now will think of our current sanctions, and attempt, on occasion, to move toward that goal.

Recent events have made me very disconsolate about this possibility. I have heard tales of administrators who wish to fight every piece of litigation SIMPLY because it is litigation, who have

¹³ *Jones v. North Carolina Prisoners Labor Union*, 433 U.S. 119 (1977) (Marshall, J., dissenting).

argued that they have complied with a court order requiring "cocktail-like tables" in a dining facility by installing high chairs and tables, bolted to the floor, because any table off which one may imbibe a cocktail is by definition a cocktail table. This obstinacy is not only silly; it undermines the hope that lawyers and correctional administrators can, with others, achieve a more humane prison while still achieving the goals of security and protection. It is done in other prison systems, and the challenge which lawyers, and others, have laid to administrators is to prove (not merely allege) that it is not possible in this country. That proof is yet to be forthcoming.

The changes which I have outlined here—more visible prisons, run by administrator-bureaucrats, in which there is a growing dialogue between prisoners and managers—will, eventually, help change the face of prisons. The millenium is not yet; I am no chiliast. But few, including, I think, fair and honest prison administrators, will deny that the changes are, on balance, modest achievements toward justice in those institutions. In the next part of this article, I shall try to suggest where the litigation movement will go during the 1980's, and the issues it will bring to both judicial and public scrutiny.

PART II

Any assessment of the future of correctional law must deal initially with the recent Supreme Court case of *Bell v. Wolfish*.¹⁴ In that case, the Court seemed to abdicate all judicial responsibility for prisoners' rights, leaving all determination to the expertise of prison administrators, to whom, said the Court, judicial tribunals owe "due deference." Taken at its broadest, and not restricted to its facts, *Bell* might be thought to mean virtually the end of successful prison litigation. I do not think that will be the case, for several reasons.

First, there is substantial doubt whether the lower

courts will follow *Bell* even where it purports to apply. The *Bell* court stressed in several spots the alleged inadequacy of the record; prisoners' counsel are bound to learn, from the *Bell* decision, that they need an impeccable record, and they must clearly articulate the constitutional grounds on which they seek relief. Counsel who do this offer to the lower courts a chance to distinguish *Bell*. Moreover, the *Bell* court suggested that at least part of the decision might not apply to "traditional" institutions. Since the court left this term somewhat ambiguous, it will fall to the lower courts to interpret that language. I suspect they will do so quite broadly.

This expectation is enhanced by the experience of *Meachum v. Fano*.¹⁵ In that case, the Supreme Court held that due process does not require a hearing either before or after a prisoner is transferred to another prison, at least in the majority of cases, unless there is a "liberty interest" created by state law. The fact is that many lower Federal courts have refused to follow *Meachum*, finding state-created liberty interests in the most arcane of situations.¹⁶

Those lower Federal courts which do "narrow" or "distinguish" *Bell* will do so primarily because of one overriding reality—they will see the prison conditions and hear the prison witnesses. Judges who tour most prisons today are unlikely to be totally unaffected.¹⁷ And when, as is today still too often the case, prison administrators demonstrate a lack of familiarity with the concepts of penology, or even a lack of familiarity with what occurs within their own system, trial courts are not likely to give the full deference which Justice Rhenquist admonished upon them.

Second, there are many areas of legal concern which *Bell* leaves untouched. They can be divided into two subgroups: (1) the "traditional" causes of action; (2) "new" complaints. As to the first subgroup, it is clear that *Bell* left standing virtually every question with which the Court had previously dealt, and with which the courts had been confronted during the 1970's—first amendment rights,¹⁸ medical care,¹⁹ protection of inmates from assaults,²⁰ access to the courts,²¹ and due process.²² On most of these the Court had previously spoken at least somewhat favorably, and it is doubtful that the courts will now take a "harder" approach than they have previously adopted.

Medical care is the most difficult area of these to assess. As one writer has noted,²³ *Estelle*, in its own terms, dealt only with a claim for damages brought by a single prisoner who alleged that he had not been properly treated. *Estelle* cannot be applied to a "systemic" challenge without distorting both the language of the eighth amendment and the impell-

¹⁴ 441 U.S. 530 (1979).

¹⁵ *Meachum v. Fano*, 427 U.S. 215 (1976).

¹⁶ A recent survey by the National Association of Attorneys General found the lower courts mixed in their reaction to *Meachum*. NAAG, ADMINISTRATIVE SEGREGATION OF PRISONERS: DUE PROCESS ISSUES (1979). There is no evidence to suggest that this trend has changed since that report was issued.

¹⁷ This was made palpable by the decision in *Ramos v. Lora*, in which the Federal court ordered the closing of the principal Colorado state prison; the decision was rendered several months after *Bell*, which the court cited in its opinion.

¹⁸ *Procunier v. Martinez*, 416 U.S. 396 (1974).

¹⁹ *Estelle v. Gumbin*, 429 U.S. 97 (1976).

²⁰ E.g., *Woodhouse v. Comm.*, 497 F. 2d 989 (4th Cir. 1973).

²¹ *Boudo v. Smith*, 430 U.S. 917 (1977).

²² *Wolff v. McDonnell*, 410 U.S. 839 (1974). The response of the lower Federal courts to *Meachum* indicates that there will be an increase, rather than a decrease, in procedural protections required before major changes in conditions can be effected; a growing number of courts is likely to find a "state created interest" in the prisoner's remaining where, and as, he is.

²³ Note, The Difficulty in Defining Constitutional Standards for State Prisoners' Claims of Inadequate Medical Treatment, 17 Duq. L. Rev. 687 (1978-79).

ing ideas behind it. It is fully probable, therefore, that the lower courts will allow, and sustain, challenges to general medical practices and systems, and continue to order sweeping changes. The same will likely be true, where a prisoner, or class of prisoners, injured or assaulted by other prisoners or guards, seeks a systemic remedy for more protection. There is already substantial indication that the courts will not adopt the *Estelle* "intent" approach in such circumstances.

Finally, many state courts who, 20 years ago, would have taken a total hands-off approach may be more receptive to broad prison-wide suits today. Since *Bell* speaks only of Federal constitutional issues, it is open to those courts to predicate relief on state statutes or constitutions. And that is exactly what state courts have done. A recent example is *Cooper v. Morin*,²⁴ in which the New York Court of Appeals said that even if *Bell* could be construed as suggesting that the Federal constitution did not require contact visitation for pretrial detainees, the state constitution required such a program. I expect to see that approach taken increasingly by state courts.

If there is some abatement of "traditional" lawsuits, either because of *Bell*, or because there are other avenues, such as grievance mechanisms, by which some of these complaints may be resolved, there will be an increase of other kinds of complaints, some of which will directly affect the correctional administrator, and all of which will have ringing repercussions in the correctional system generally.

(1) *Equal Protection Suits*. Virtually none of the litigation thus far has involved women prisoners; indeed, the first major decision on the rights of women prisoners, viz-a-viz men prisoners, was handed down in Michigan only 3 months before the decade ended.²⁵ But that decision established what is likely to be the pattern of decisions where women prisoners challenge their conditions as inferior to those of male prisoners. The court there rightly recognized that women prisoners generally are afforded fewer rehabilitation programs, and worse treatment than are men. Moreover, what little

rehabilitation there is, is highly stereotyped—while food management courses in the male prisons meant commercial food activities, in the women's prison it meant learning how to cook meals for the family. Womens' prisons are generally less well funded (per capita), have inferior medical care, fewer (and more "womanly") recreational facilities and tend to be more personally demeaning.²⁶

Women are often excluded from work release programs, or other such offerings, and, at least prior to the 1970's, were statutorily sentenced to longer terms in some states in order to afford more time to "rehabilitate" them.²⁷ There is some evidence today that parole decisions as to women are made in such terms, while parole decisions with regard to men are tending, more and more, to reflect a "desert" notion.

There is also a strong likelihood that women prisoners in the 1980's will seek judicial assistance in maintaining the family unit; more specifically, that they will seek to require the prison to establish nurseries and other facilities in which their children may be housed on prison grounds while they are serving their terms. Some states already recognize this right, and have begun to establish programs; others may be compelled to do so by court order. There is, of course, much room for debate about the wisdom of such a course of action, and that debate is sure to infiltrate the courtroom, as well as the offices of correctional administrators. Recently, the Model Sentencing and Corrections Act, after reviewing the literature on the subject, concluded that prison systems should experiment with such programs;²⁸ the material which was relied upon to reach that conclusion, as well as more recent studies, will surely create litigational possibilities in the 1980's. And, of course, if women establish their right to such programs, male prisoners, on the basis of equal protection, will seek equal rights.

(2) *Sexual Discrimination in Employment*. A second, but just as challenging, area which has already seen some litigation but which is certain to see more, is that of the rights of women to be employed in correctional facilities. The tensions allegedly created by employing female guards in male institutions pit correctional administrator against the force of the Equal Employment Opportunity Act and the male prisoner's right of privacy against the right of the female to be employed.

Several cases have held that prisoners have a right to privacy not to be watched by guards of the opposite sex while they are undressed, or in the shower or toilet.^{28A} Some courts have held that precluding female guards from work in the

²⁴ 49 N.Y. 2d 69, 399 N.E. 2d 1188 (1980).

²⁵ *Glover v. Johnson*, 478 F. Supp. 1075 (E.D. Mich. 1979).

²⁶ Note, *The Sexual Segregation of American Prisons*, 82 Yale L.J. 1229 (1973).

²⁷ See, e.g., *State v. Chambers*, 63 N.J. 287 (1973).

²⁸ Conference of Commissioners on Uniform State Laws, *Model Sentencing and Corrections Act*, Section 4-116 (1978).

^{28A} In re Long, 55 Cal. App. 3d 788, 127 Cal. Rptr. 732 (1974) (male inmates sued to preclude presence of female guards); *Fort v. Ward*, 434 F. Supp. 946 (S.D.N.Y. 1976), rev'd and remanded, 566 F. 2d 849 (2d Cir. 1977) (female inmates sued to preclude presence of male guards); *Avery v. Perrin*, 473 F. Supp. 90 (D.N.Y. 1979) (Woman guard may deliver mail to male inmates in their cells.)

"private" areas of the prison is not a violation of equal employment opportunity.²⁹

Some of these cases, however, required that the female guards be hired, but placed in other areas.³⁰ These decisions, if rendered after the 1977 Supreme Court decision of *Dothard v. Rawlinson*,³¹ have distinguished the *Dothard* case; it is likely that that opinion, which allowed Alabama not to hire women guards for the main maximum security prison in that state because the prison was a "jungle," will become a "derelict on the waters of the law"—restricted to those prisons which, by self-admission, are "jungles." Few states will be willing to make such an admission.

(3) *Training*. A third area of litigation is likely to focus on the evolving requirement that correctional systems train their guards properly, and teach them to use only as much force as necessary in quelling prisoner violence or resistance.³² Some courts have ordered that prison guards be given training in race relations;³³ as the data on prison guards become more sufficient, more litigation is likely to arise here as well.

These cases are thus far quite ambiguous in most situations, since they do not tell us what kind of training is "adequate," but only that there is a need for "adequate" training. This is generally because of the procedural posture of these cases—a prisoner sues the county, the court finds the county (or state) not properly subject to suit, and dismisses. The prisoner appeals, and the appellate court agrees that

IF the plaintiff prisoner can prove that inadequate training caused his injury, he may win.

(4) *Guards and Unions*. A fourth area, closely related to the third, is the rights of prison guards. Many of these cases will be labor cases, based primarily on state and Federal labor relations statutes. But some will deal with nonstatutory, non-negotiable issues. For example, one court has held that a prison guard has a constitutional right not to follow orders which he reasonably believes would violate a prisoner's rights, and that he cannot be penalized, much less fired, for such a refusal.³⁴

The explosion of guard unions during the 1970's is surely going to have an effect on litigation in the 1980's. Unions may seek to intervene in litigation, rather than be represented by the correctional department. And, in some instances, the intervention may be on behalf of prisoners, particularly where the remedy sought is increased training, and an increased number of security personnel.

The legal issues of whether the guards' unions will be allowed to intervene, particularly since they are directly affected by changes in prison practices, and directly protected by contractual arrangements with the Department (which may prohibit specific changes without union approval), is at least as intricate and complex as the social and political changes which the unions have generally made in any event. As a result, there will be much more negotiation among the three sides to the conflict, with the threat of litigation by either the guards or the prisoners hanging in the background.

(5) *Parole*. Throughout the 1970's, it appeared that a revolution in parole practices might be judicially implemented or mandated. Notwithstanding the *Greenholtz* case,³⁵ in which the Supreme Court said that potential parolees were not entitled to a full due process hearing being considered for parole, that day is yet to come. The 1970's saw a virtual flood of studies of the parole release system.³⁶ As those data are reviewed by prison advocates, substantive challenges to parole practices will increase dramatically. The recent case-law involving the practices of the United States Parole Commission, which has resulted in some changes in that agency's procedures and substantive criteria, is only the tip of a very large iceberg. Unless there is legislative restriction (as in Oregon) or abolition (as in Minnesota of parole released practices, the 1980's will see the intervention of courts in these agencies' activities as well, with obvious implications for the prison system. Similar challenges to parole supervision practices, particularly involving the conditions of parole (and probation) are hovering over the system.³⁷

²⁹ *Reynolds v. Wise*, 375 F. Supp. 145 (N.D. Tex. 1974); *City of Philadelphia v. Pennsylvania Human Relations Commission*, 3 Commw. Ct. 500, 300 A. 2d 97 (1973); *Iowa Dept. of Soc. Serv. v. Iowa Merit Employ. Dept.*, 261 N.W. 2d 161 (Iowa 1977); *Wolfish v. Levi*, 439 F. Supp. 114 (S.D.N.Y. 1977), aff'd 573 F. 2d 118 2d Cir. (1978), r'vd. on other grounds, 441 U.S. 521 (1979).

See Comment, Sex Discrimination in Prison Employment: the Bona Fide Occupational Qualification and Prisoners' Privacy Rights, 65 Iowa L. Rev. 428 (1980) (an outstanding analysis). Note, Balancing Inmates' Right to Privacy with Equal Employment for Prison Guards, 4 Women's Rights L. Rptr. 243 (1978).

³⁰ E.g., *Gunther v. Iowa State Men's Reformatory*, 462 F. Supp. 952 (N.D. Iowa 1979), aff'd F. 2d (8th Cir. 1/11/80).

³¹ 433 U.S. 321 (1977).

³² See *Owens v. Hass*, 601 F. 2d 1242 (2d Cir. 1979) (County can be liable under Sec. 1983 for inadequate training program.)

³³ *Taylor v. Perini*, 359 F. Supp. 1185 (N.D. Ohio 1973). See also *Gates v. Collier*, 390 F. Supp. 482 (N.D. Miss. 1975); *Taylor v. Perini*, 431 F. Supp. 566 (N.D. Ohio 1977); *Mitchell v. Untreiner*, 421 F. Supp. 886 (N.D. Fla. 1976).

³⁴ *Harley v. Schuykill County*, 476 F. Supp. 191 (E.D. Pa. 1979).

³⁵ *Greenholtz v. Inmates of Nebraska State Penal Complex*, 442 U.S. 1 (1979).

³⁶ E.g., Sacks, Promises, Performance and Principles: An Empirical Study of Parole Decision-making in Connecticut, 9 Conn. L. Rev. 347 (1977); Heinz, Heins, Sanderowits and Vance, Sentencing by Parole Board: an Evaluation, 67 J. Crim. L. & Crim. 1 (1977); Scott, The Use of Discretion in Determining the Severity of Punishment for Incarcerated Offenders, 65 J. Crim. L. & Crim. 214 (1974); M. Gottfredson, Parole Board Decisionmaking: A Study of Disparity Reduction and the Impact of Institutional Behavior, 70 J. Crim. L. and Crim. 77 (1979).

³⁷ A good example of this may be *Panko v. McCauley*, 473 F. Supp. 325 (E.D. Wis. 1979), in which the court held that a condition that the parolee not "frequent" taverns and other places which sold alcohol, while not unconstitutionally vague on its face, was not understood by the parolee, and hence was unconstitutional as applied, where the parolee visited one tavern once during an entire year, to celebrate his birthday with family and friends. In order to reach this conclusion, the Federal court reviewed the state court record—a highly extraordinary step, which may presage more intense scrutiny of parole revocations in the future.

(6) *Classification*. There is also a strong likelihood that we are going to see a more discreet type of litigation than we have seen heretofore, at least in the area of classification. In *Bell*, the court indicated that in some instances pretrial detainees may in fact have fewer rights than prisoners because jails hold persons who would normally be classified from minimum security to maximum security ratings, while prisons differentiate among these ratings, and in many states, house differently ranked prisoners in different institutions. The implication was that at least minimum security prisoners might be entitled to more rights than maximum security prisoners. If that implication is grasped it would seem inevitable that prison litigation in the 1980's will seek to surround classification decisions with a great deal more precision than has occurred before. And, once those classifications are made, prisoner advocates are likely to argue for greater freedoms for those not ranked as maximum security risks.

This suspicion is enhanced by the Supreme Court's recent decision in *Vitek v. Jones*.³⁸ The court there held that, before a prisoner could be transferred, on a quasi-permanent basis, to a mental hospital, a due process hearing had to be held. The court first found a "state-created liberty interest," as required by *Meachum*. But the court THEN proceeded, unnecessarily, but in very strong dictum, to declare that even if there had not been such an interest, the prisoner's "grievous loss" would have required a due process hearing. This resuscitated language which many thought had died with the *Meachum* decision, and suggests that the Court (or at least the five members who dealt with *Vitek* on the merits) may yet be willing to rediscover losses which activate procedural (and possibly substantive) due process. In any event, *Vitek*'s reembracement of "grievous loss" certainly adds ammunition to those who wish to attack, directly, the arbitrary and whimsical classifications decisions one often finds in prisons.

(7) *Sentencing*. Finally, of course, there will be immense changes in the sentencing systems in virtually all of our states. Many of these changes will occur initially through legislation, as the movement toward determinate sentencing, and to a lesser (unfortunately) extent toward desert sentencing, increases. But those new sentencing schemes, as well as the present indeterminate systems which are still the majority in this country, will come under increasing scrutiny in the courts.

Challenges to sentencing on the ground that the sentence imposed is disproportionate to the gravity of the offense and the moral culpability of the offender are likely to increase. The past decade has seen a growing number of such challenges, and courts in several instances have invalidated penalties on this basis; the most famous thus far, of course, is the *Coker* case, in which the Supreme Court declared unconstitutional the imposition of the death penalty for rape.³⁹

The early 1970's saw an enormous outpouring of litigation against prisons, most of it well-founded. But there was a tendency for prisoner rights' advocates to characterize, and caricature, all prison officials as the personification of all that is arbitrary, vicious, mean-minded. On the other side, many prison administrators clearly believed that those who advocated prison reform were either thoughtless revolutionaries or idealistic visionaries, unfamiliar with even the basic realities of the correctional world. To some degree, both perceptions were justified. But to a far larger degree, they were, as are all stereotypes, unwarranted. In the middle of the 1970's, there evolved a recognition on both sides that accommodations could be reached which did not jeopardize the interests which both sides sought to achieve and protect. Prison administrators came, in some instances, to encourage litigation as a means of obtaining larger budgets with which useful and meaningful reforms could be attained. Prison litigators understood more carefully the concerns of administrators; this was particularly true when prisoners themselves told their counsel that some of the challenged practices were desirable, at least in the institutions in which they were confined. A dialogue began. It has been hesitant, intermittent, and sometimes spotted with the distrust that arises between any groups which find themselves enmeshed in litigation. In the 1980's, that dialogue will, inevitably, become a trialogue, as prison guards, and their unions, join in the discussion. But I am hopeful that if there is good will on all sides, we can achieve more nearly the goal which all of us have—a fair, humane prison system which, at the same time, protects and assists those who are relegated to our bastilles. We will not, in the next 10 years, or even the next 20, attain that goal. And there are some goals, such as the abolition of prison or the establishment of a truly collaborative system, about which we will continue to disagree. But if those disagreements are ones of principle, and not simply of posturing, surely we can more closely realize a fair and effective system.

³⁸ U.S. (1980).

³⁹ *Coker v. Georgia*, 433 U.S. 584 (1977).

Children of the Holocaust and Their Relevancy to Probation: Presentence Investigations and Case Planning

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“EACH GENERATION must cope with its own history..., but in some fashion, the members of each generation must also master the crucial problems in the lives of their parents.” (Bettleheim, “Surviving”).

Case History

Fred, a 27-year-old man, was sent to prison for a complicated and sophisticated conspiracy to manufacture drugs. The probation officer investigating the case was reported to have stated, “It can only be speculated as to why he (the defendant) decided to jeopardize his future and freedom, but it would seem that he may well have viewed his actions in part as a game; a game in which he felt his superior knowledge would enable him to operate outside the law with impunity and would enable him to flaunt the laws of the United States.”

A psychiatrist, a psychologist, and a social worker participated in the evaluation of Fred. The psychiatrist characterized him as a manic-depressive with a history of recurrent depression and alienation going back to age 6. As a child, Fred had a neurotic relationship with his father, contemplated suicide, and involved himself with drug use between the ages of 16 and 18.

The psychologist, after performing numerous tests, characterized Fred as having two critical scores, one in the area of hypomania (overproductivity in thought and action) and the other in the area of psychopathic-deviation (nonconformity).

The social worker described Fred as an intellectually gifted, emotionally immature, overprotected, 27-year-old single man, who from early childhood was impulsive and rebellious. The social worker went on to state that although Fred was not criminally oriented in the sense of defrauding or stealing, his

impulsive behavior led him into the drug world, where he became fascinated by the challenge offered and the easy money provided.

The probation officer provided further pertinent social history about Fred. He was the only son of a concentration camp survivor. His father was interned by the Gestapo at age 25. Upon his release from the concentration camp, Fred's father married and immigrated to the United States, where he established a successful business. The family became affluent. By the time Fred reached adolescence, the only communication between himself and his father was angry arguments. Fred's only other arrest and conviction occurred at age 25 and was for possession of amphetamines. The State Court placed him on probation, which was successfully terminated.

Fred graduated from high school, college, and a professional school. It was the impression of all who studied Fred that he was a brilliant and potentially productive young man with a worthwhile future. No one gave any significance to Fred being the son of a concentration camp survivor. However, recent studies appearing in the literature of both the psychiatric and psychological communities clearly suggest that a primary reason for Fred's behavior may well be associated with his father having survived the concentration camps and reared a child.

Holocaust Defined

The Holocaust has many descriptions. Before World War II, there were nearly 9 million Jews living in country villages, towns, and cities throughout Europe. Seven years later, 90 percent of the Jews living in Poland, Estonia, Latvia, Lithuania, Germany, and Austria had disappeared. Thirty million people died in World War II. Most of them were soldiers killed in battle. Five million were political prisoners, dissidents, antifascists of various nationalities, homosexuals, and gypsies who had been murdered by the Nazis. Six million, or two out of every three Jews in Europe, had also been murdered. For the murdered 11 million, there were

*The author wishes to acknowledge the contribution of the libraries of the Simon Wiesenthal Center for Holocaust Studies, Yeshiva University of Los Angeles, Adaire Klein, librarian; and the Neuropsychiatric Institute, University of California at Los Angeles, Ms. Sherry Terzian, director of medical health information.

no graves. They had been gassed, burned, shot, bludgeoned, and starved to death.

One third of the Jews escaped death at the hands of the Germans. Some died of natural causes. Some fled east to parts of Russia that remained unoccupied. Some went to the ports of the Atlantic or the Mediterranean, ending up in the Americas, Australia, Israel, and Shanghai. Some four hundred-thousand to five hundred-thousand Jews who remained in Nazi-occupied Europe survived the wars in the labor camps, in the forests fighting with small partisan groups, in the forests hiding out on their own, in the cities by passing as Christians with false papers, or confined for months and years to the constricted quarters of a secret pantry, attic, or cellar. No more than 75 thousand outlived the Nazi concentration camps. All of these individuals are referred to as survivors of the Holocaust.

(Epstein, *Children of the Holocaust*).

The Holocaust was located in six great killing centers called concentration camps: Auschwitz-Birkenau, Maidanek, Chelmno, Belzec, Sobibor, and Treblinka. These factories murdered large numbers of human beings daily and reflected a demonic, irrational policy of extermination. At an individual level, those who did not die existed to work and, in some fashion, their work entailed the killing process. (Terrence DesPrese, "The Lesson of Treblinka")

The Holocaust was a personal trauma inconceivable and uncomparable. Death was dehumanized. Inmates witnessed extreme cruelty without being allowed to respond. There was a loss of family and friends with no possibility of mourning. The individual's identity was destroyed, along with a sense of community. There was a capriciousness to the way that death was dealt out. (Joy Melville). For the individual, death was blood, piles of skeletons, blackened barbed wires with bits of flesh stuck to them, hills of suitcases, and mountains of children's shoes.

Suddenly, the war ended. The survivors were released and began the healing process. Visibly, the broken bodies tried to mend. Invisibly, the broken personalities also tried to mend and, as a result, many of the survivors entered into hasty, ill-planned marriages, oftentimes in the displaced-person camps, in order to relieve their intense mourning and sense of loss. Many of the survivors immigrated to other parts of the world, including Canada, Israel, and America. Everywhere, the survivor was facing the same task of both building a new family and overcoming the traumatization of the Holocaust. They also were becoming parents.

Survivors as Parents

Survivor parents began displaying personality distortions and emotional problems in the family unit. The "concentration camp survivor syndrome" included chronic depression, feelings of guilt, self-loathing, suspiciousness, an inability to cope with anger, insomnia, nightmares, and psychosomatic illnesses, to name a few. (Joy Melville, 1979).

Survivor parents were preoccupied with mourning the loss of significant family members. Oftentimes, this could best be seen in the children being named after a lost family member. Numerous survivor parents suffered from what is called "survivor guilt" for having remained alive while others around them, including family, died. Also, survivor parents, in order to have survived the camps, had to suppress their rage; otherwise, they would be instantly killed.

Both the guilt and the rage influenced the survivor parents' effectiveness in child rearing. They had problems in setting limits. There were problems in communication. Survivor parents tended to "over value" their children, expecting their children's accomplishments to justify the parents' survival and compensate for loss of family members. (Steinitz). Not only did the parents have difficulty in setting limits for their children, but they also unconsciously encouraged their children to act out the rage the parents were unable to express against the concentration camp system.

In summary, the child, finding his needs inappropriately met by survivor parents, responded with disruptive behavior, depression, and anxiety.

Children of Survivors or "Second Generation"

The survivor children, as they are known, have a fairly clear profile and by definition are born to a family in which at least one parent survived the Nazi persecution in some fashion. As mentioned previously, young survivor children have problems with impulse control, particularly the control of aggression. A sense of alienation from the community was also a common feature of survivor children personalities. As adolescents, they show personality problems, excessive dependence, limit and testing problems, and poor coping behavior. These psychological disturbances become more pronounced as adolescence advances. These children have significantly identified with their parents and, in some cases, are unable to separate their identity from that of their parents. These are the survivor children who are often-times and in various ways unconsciously preparing for another Holocaust. Newspaper articles about the CIA, or typical

political maneuverings between parties, hold for these survivor children special significance and suggest to them a frightening future.

Contemporary Research

Recently, an article was written describing 30 patients admitted to Hillside Memorial Hospital in New York, all of whom were survivor children. The author's impression, as has been the impression of other researchers, was that the survivor children were showing up in the psychiatric facility in disproportionate numbers to the general population. Considering that there are possibly no more than a quarter million survivor children in the United States, 30 patients was considered excessive for Hillside Memorial Hospital.

Patients studied consisted of 19 males and 11 females, ranging between the ages of 18 and 39, with a mean age of 25. Seventy-five percent were discharged with the diagnosis of schizophrenia. Thirty percent of the total sample was discharged with the diagnosis of paranoid schizophrenia. Twenty-seven percent of the survivor children had paranoid features. Over 52 percent of the patients in the Hillside sample were hospitalized at the exact age at which one of their parents was incarcerated by the Nazis or exiled into hiding. Five of the six male patients in one of the therapy groups had a history of imprisonment. Half of the group was found to be demanding, manipulative, and had a history of being out of control or of assaultive behavior. Many of the patients exhibited a "testing behavior" both inside and outside the hospital, in which they were seemingly preparing themselves for another Holocaust. This testing oneself against the system is a significant feature of the survivor children's personality, according to Dr. Axelrod.

There were certain historical and family features which seem, in the Hillside study, to correlate directly to the degree of disturbance found in the Hillside patients. The amount of persecution endured by the survivor parents correlated directly in the Hillside study to the degree of psychopathology found in the patients. The more prolonged and brutal the experience, the more disturbed the child. The degree to which the survivor parent refused to discuss the experience with the survivor child seemed to correlate directly also with the degree of psychopathology found in the child. Finally, the extent to which the survivor parent's family was destroyed also correlated directly to the degree of problems found within the survivor child. The more destroyed the extended family, the more disturbed the survivor child. (Axelrod).

It was not until 1970 that the therapeutic community began recognizing second generation problems as being of significance. As was true in the presentence investigation, therapists often-times overlook the Holocaust in family histories. The Hillside study showed that both therapists and survivor children were often-times unaware of the effects of the Holocaust upon their own perceptions of each other. The psychotherapists avoided asking questions about the Holocaust because it would open up a discussion filled with repugnant descriptions. These psychotherapists would rationalize and excuse their lack of interest in the subject area.

Probation Officer Application

Interest and use of the above information concerning the second generation phenomenon grew out of a caseload in an urban area of Los Angeles of which about 10 percent of the probationers are survivor children. In one case, a probationer had discovered for himself that being the child of a survivor of the Holocaust was significant, and he began a course of inquiry and therapy which led him through discussion groups as well as individual therapy. He is now a successful businessman with a seemingly good prognosis. Once he understood the psychodynamics of his childhood and the survivor child compulsion to test himself against society, he was able to alter his behavior and pursue more productive avenues of expression. This young man's mother and father were both survivors of the Holocaust.

A second survivor child appeared on the caseload. He was unaware of its significance, although his history was similar to the first probationer. This officer found that the probationer reacted very positively to information about Holocaust survivors and their children, and he almost immediately began pursuing his own inquiry into the subject and now feels that he is on an important avenue of exploration. Of significance was that the probationer left home at the same age his father had been interned in a concentration camp. He had not considered his second generation experience as being important until now. He does present a history of impulsiveness and a deep sense of alienation.

A third survivor child is not Jewish. Her mother survived the forced labor camps in Eastern Europe. This probationer has a history of adolescent depression, suicide attempts, and significant psychological problems. She was unable to separate herself from her parents. A significant feature of that relationship was over dependency. Again, information and literature about survivor children has been provided

to both the probationer and her therapist. It is too early to assess the impact of this information.

This officer's procedure has been to identify Holocaust parents in probationers' backgrounds, make them aware of its significance, and act as a possible referral source if they feel a need for further inquiry. It is believed that in the example case presented at the beginning of the article, this individual might not have ended up in prison had he entered therapy which dealt with his second generation experience after his first arrest.

In Summary

Although the terminology is relatively new, the Holocaust phenomenon has been around for a long time and is not simply a Jewish experience. In 1915, genocide of 1½ million Armenians murdered by the Turks was a holocaust. Survivors of the prison camps, both in the Second World War and Vietnam, could well produce similar symptoms to those seen in survivor parents.

(Joy Melville).

One could also argue that from the slavers in Africa to the Emancipation Proclamation, the Black experience was another example of the holocaust phenomenon. Interestingly, at least one therapist believes with respect to the Jewish survivors, that it will take some 200 years for subsequent generations to no longer need therapy.

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THE CHARACTERISTICS of "human beingness" are numerous and varied. No one list could possibly exhaust them all. To name but a few, they include compassion, a sense of justice, courtesy, mercy, patience, thoughtfulness, humility, reverence for life.

—RABBI WILLIAM J. LEFFLER

Managing the Interorganizational Environment in Corrections

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THE DECADE of the 1980's will require correctional administrators to become competent in the management of scarce resources. This will require a significant shift in managerial expertise away from a focus on administering personnel and programs internal to the organization. Management knowledge and skill will instead need to be directed towards more effective use of resources in the organization's task-environment.¹ This will be even more important in the face of declining governmental and public support for human service programs as our economy fluctuates.

While recognizing the importance of management education and training in corrections that focuses on improving organizational structure and climate, this perspective no longer seems sufficient to meet the contemporary demands confronting our correctional administrators. Whether administering a large correctional department, a probation or parole agency, a halfway house, a jail, or some other correctional organization, each administrator must deal with a fundamental reality of organizational life—the competition for the increasingly scarce resources provided by the network of public and private human service organizations in the community. There is also competition for budgetary support, competition for program support from the general public and from other criminal justice agencies, as well as competition for support by the media. As any correctional manager knows, poor relationships with the press or television and radio, can severely constrain the organization in accomplishing its objectives. Any or all of these task-environment groups has the potential to either help or hinder the correctional organization in some drastic way. To be effective, correctional managers must be prepared to deal creatively with the complexity and uncertainty imposed by fluctuations in their environment. This perspective has been well stated by Pfeffer and Salancik:

*The author is indebted to Professor Robert Johnson for his helpful comments on this article.

Both problems of using resources and problems of acquiring them face organizations, but the use of resources always presupposes their existence. A good deal of organizational behavior, the actions taken by organizations, can be understood only by knowing something about the organization's resources. What happens in an organization is not only a function of the organization, its structure, its leadership, its procedures, or its goals. What happens is also a consequence of the environment and the particular contingencies and constraints deriving from that environment.²

Managerial knowledge and training in the field of corrections has not increased sufficiently to provide the administrators of these agencies with the skills needed for handling the demands imposed by their external environment. Fundamentally, this enlarged managerial task requires not only gaining political and public support to assure the availability of resources internal to the organization, but also requires securing resources external to the organization in the form of services for the offenders under their control. As people-processing as opposed to people-changing organizations,³ one aspect of correctional success can be measured by the degree to which services can be negotiated for those offenders requiring them. Much of the failure attributed to correctional programs by the National Advisory Commission on Criminal Justice Standards and Goals, *Report on Corrections*, was related to the inability of correctional agencies to link the offender successfully into existing community resources, or to mobilize the community in developing services where gaps existed.⁴ A number of correctional practitioners have also identified this community linkage problem as a major impediment to correctional success.⁵

¹ William Dill, "Environment as an Influence on Managerial Autonomy," *Administrative Science Quarterly*, Vol. 2 (1967): 409-443.

² Jeffrey Pfeffer and Gerald R. Salancik, *The External Control of Organizations-A Resource Dependence Perspective*. New York: Harper and Row, 1978, p. 3.

³ Yeheskel Hasenfeld, "People Processing Organizations: An Exchange Approach," *American Sociological Review*, (1972): 256-263.

⁴ National Advisory Commission on Criminal Justice Standards and Goals, *Report on Corrections*. Washington, D.C.: Government Printing Office, 1973.

⁵ Harvey Trager, "The Reluctance of the Social Agency to Work with the Offender," *Federal Probation* (March 1965): 23-27; Wallace Mandel, "Making Corrections a Community Agency," *Crime and Delinquency*, Vol. 17, 3 (July 1971): 281-288.

Interorganizational Problems

In a recent study of one city's correctional system and its relationship with its network of community resources, Weiner found interagency cooperation between these agencies to be the exception rather than the norm. Lack of interagency cooperation between correctional organizations was also found to be a significant problem. There were few, if any, formal working relationships established between the eight correctional agencies for things like exchanging information about joint clientele, conducting joint training programs, or exchanging information about programs and services. The agencies did not share information about experiences they had encountered of either a positive or negative nature in working with various community service agencies. For the most part, agency administrators and correctional personnel operated without any planned organizational strategy for negotiating effective working relationships with other correctional agencies or, for that matter, with the various community service organizations in their task-environment.

This study also revealed that the community service agencies developed effective techniques for limiting their relationships with correctional personnel and their clientele for a variety of reasons. One of the most frequently cited reasons given by these community agencies as a barrier to interorganizational cooperation, was the failure of correctional personnel to adequately screen offenders with regard to their motivation to accept services and to follow through with them. Many of these community agencies felt like a dumping ground and resented the fact that correctional agencies failed to conduct an adequate assessment of the offender's problem situation and motivation. Direct contact for referral by correctional personnel with community agencies also tended to be limited on a qualitative level. Referrals and services that seemed to work out the best were those that seemed to demonstrate that a correctional worker was interested in his/her client and was willing to visit the community agency to provide helpful information. By doing so, it ap-

peared that a genuine effort was being made to develop and nurture a working relationship by respecting the boundaries of the community agency.⁶

Our knowledge of organizational theory, particularly of interorganizational relationships that facilitate or impede cooperative working relationships between agencies, has sufficiently developed to the point where it could be used to train and educate correctional managers.⁷ Some aspects of this type of managerial training are currently being conducted by the Wharton School's Strategic Management Program in Corrections under a grant funded by the National Institute of Corrections. The year-long program helps administrators learn to think conceptually and programatically about their task-environment, particularly in terms of strategies for mobilizing sources of support for resources and programs.

Interorganizational Strategies Required for the Effective Correctional Administrator

In the near future, the correctional administrators' managerial competence will be assessed in terms of their ability to manage both the internal and the external environment of their organizations. In order to develop the skills and competence required for accomplishing the interorganizational task, correctional managers will need to acquire knowledge of open systems organizational theory, which focuses on sociotechnical systems,⁸ organization-environment relationships,⁹ the interorganizational field,¹⁰ concerted decisionmaking,¹¹ and related interorganizational strategies of competition, conflict, avoidance, and cooperation.¹² Such an emphasis is a departure from the current focus on intraorganizational structure and climate. From the standpoint of the correctional task, exclusive knowledge and administrative skill in these areas alone prevents our field from making the quantum jump necessary to benefit society by other than the closed system strategy of imprisonment.

As a means of encouraging a shift of perspective from exclusively the intraorganizational to the interorganizational level, the following strategies are identified to stimulate thought, and to provide a focus for effective correctional management in the face of declining resources.

(1) Map the interorganizational network in the community by identifying all the relevant organizations in the task-environment (political, social, economic, legal, etc.) that have the potential to assist or hinder your organization in obtaining

⁶ Ronald I. Weiner, "Sociometric Analysis of Interorganizational Cooperation Between Correctional and Community Service Organizations," Dissertation, University of Maryland Graduate School of Social Work, 1977.

⁷ See, for example, the work of John R. Schermerhorn, Jr., "Determinants of Interorganizational Cooperation," *Academy of Management Journal*, Vol. 18, 4 (December 1975): 843-855.

⁸ Eric Miller and A.K. Rice, *Systems of Organization-The Control of Task and Sentient Boundaries* London: Tavistock Publications, 1967.

⁹ Pfeffer and Salancik, *op. cit.*

¹⁰ Roland Warren, "The Interorganizational Field as a Focus of Investigation," *Administrative Science Quarterly*, Vol. 12 (1967): 880-899.

¹¹ Tuite, Matthew; Chisholm, Roger; and Radnor, Michael. Eds. *Interorganizational Decision Making* Chicago, Illinois: Aldine Publishing Company, 1972.

¹² Gurewicz, Harold, "Relations Among Organizations," in Bowers, Raymond, ed. *Studies on Behavior in Organizations* Athens, Georgia: University of Georgia Press, 1968: 13-44.

resources and support for correctional programs; identify your competitors from among the other correctional organizations in your community who require resources similar to your organization.

(2) Train a unit of your correctional staff for assuming specialized boundary spanning roles in the community.¹³ CRMT's (Community Resource Management Teams) and CRU's (Community Resource Units) represent models for this specialized work. Unlike their colleagues who are trained to work primarily with individual offenders, boundary spanning personnel require organizational as well as human relations and communications skills. Their primary task will require them to conduct a careful assessment of existing community resources in terms of their service requirements, policies, and boundary transactions. They will also need to establish formal working relationships with other agency personnel, preferably through written agreements, and to actively work to nurture these relationships through various goodwill gestures (phone to thank a worker for his/her time and effort to assist you and your client).

(3) Establish formal written agreements with the various community resource providers regarding their referral procedures, followup requirements, and other related mutual concerns. Request that the directors of the various community resource agencies identify specific boundary contact persons in order to facilitate the referral process and to become aware of the resource availability situation. Once working relationships have been formally established, work towards clarifying, at intervals of two or three times a year, whether the programs, services, or requirements have changed in any way. Ask the boundary personnel in the community agency to evaluate the working relationship and to indicate suggestions for modifying or improving the working relationship with your agency. Share with the agency problems encountered in working with them. Do this in ways that demonstrate an effort to understand their organizational needs while desiring to improve your interagency cooperation with them.

(4) Reorganize internally to conduct a more adequate diagnostic assessment of your offender population. Spend more time evaluating not only the problems of your offenders, but pay equal if not more attention to their level of motivation and willingness to receive services from various community agencies. Don't waste the time or resources of your

staff—or of the personnel in a community agency—on offenders who are evaluated as poorly motivated to use services. You wear out your credibility by doing so. For those offenders evaluated as being motivated to use services, work out in advance with the community agency the ways you can best prepare the offender for entry into their agency. For those offenders who appear either ambivalent or perhaps marginal with respect to receiving services, continue to work with them for a brief period of time to reevaluate their prognosis for using services in the future.

(5) Avoid at all costs sending a motivated client to a community agency identified and evaluated as offering poor quality services. Similarly, it also makes no sense referring a motivated client to any agency which is resistive to working with your agency in spite of your best efforts to engage in interagency cooperation with them. Either situation has the potential to adversely affect the offender's continued willingness to receive services and his sense of trust in the correctional worker.

(6) Boundary spanning activities should also be directed towards developing cooperative interorganizational relationships with other relevant organizations in the task-environment. Establishing formal working agreements with other criminal justice organizations is essential as a means of gaining support for correctional programs. Assigning personnel responsibility for facilitating cooperative relationships also helps to detect disturbances or problem situations that may be developing with respect to other criminal justice agencies' concerns about a correctional policy or program being considered or in operation. This allows time to both plan and negotiate a resolution that provides the basis for a continued favorable working climate between the two agencies.

(7) Develop effective interorganizational relationships with significant political units among key executive and legislative branches of government. Boundary personnel can be assigned to provide information briefings to key decisionmakers on a routine basis by meeting with their staff assistants. By informing these key decisionmaking units of correctional plans and operating programs, including results achieved and associated costs, correctional organizations are in a better position to mobilize political support for their current policies and programs. They are also in a position to detect potential problem situations and work out methods for resolving them in advance with the least damage to the agency's mission, instead of being caught off guard by a potential political attack. Similar relationships

¹³ See the work of the following for an excellent discussion of boundary spanning activities: William B. Brown, "Systems, Boundaries, and Information Flow," *Academy of Management Journal* (1966): 318-327; Howard Aldrich and Diane Herker, "Boundary Spanning Roles and Organization Structure," *Academy of Management Review* (April 1977): 317-330.

can be established with the media as a means of gaining support for the correctional agency's programs. Interorganizational relationships with the business and industrial community, with other intergovernmental units, with the local union, with other citizen/public interest groups, and with various professional reference groups, such as the local Bar Association, should also be assigned as a boundary spanning activity.

(8) Stabilize the pool of resources available to correctional organizations in a community. To do so, it would be wise to develop alternative organizational relationships among the network of correctional agencies themselves. Instead of each correctional agency competing with the other for scarce resources on an independent basis, moving towards joint planning and decisionmaking among the correctional agencies in a community regarding resource acquisition and deployment, would alleviate duplication of effort and reduce resistance from resource providers.

One model of concerted decisionmaking among correctional organizations, would be to develop a centralized community resource referral center staffed by specialized boundary personnel assigned from each of the various correctional agencies in the community. This pooled correctional unit could be assigned total responsibility for negotiating interagency relationships with community agencies in referring offenders for services, evaluating service delivery, and following up on client progress. Within

the unit, specialists could be assigned specific resource areas in working with community agencies, as well as with the offenders requiring their services. Such a unit could be given total responsibility for assessing and evaluating offender needs and motivation, as well as for making decisions on referral to appropriate community resources. Thompson refers to this as developing "packages of sequential interdependence," and suggests that "each unit is governed not by tradition but by the requirements of those adjacent to it, and all by the needs of the whole... Specialization to participate in a larger network involves a yielding of independence and occurs... because the payoffs promise to exceed those available in isolation."¹⁴

Thompson's model of sequential interdependence has been tried successfully in the mental health field.¹⁵ Competing correctional organizations would do well to consider similar models of interorganizational cooperation as a means of better using its network of community resources. To do so will require correctional administrators to think conceptually and programatically about the advantages of negotiating formal working relationships with other correctional agencies in their environment, to facilitate their mutual efforts to achieve organizational effectiveness.

The proposed strategies presented here are not intended to replace managerial competence in managing the personnel and programs internal to the organization. Rather, it is suggested that balancing the demands of both the internal and the external environment of the organization represents the most critical requirement of our present and future correctional administrators.

¹⁴ James D. Thompson, "Social Interdependence, The Polity, and Public Administration," *Administration and Society*, Vol. 6, 1 (May 1974), p. 7.

¹⁵ Julian S. Rubenstein and Sol Levin, "A Model for Interagency Cooperation in the Provision of Mental Health Services to Youth," *Hospital and Community Psychiatry*, Vol. 27, 4 (June 1976): 404-407.

THE CONTEMPORARY correctional manager, regardless of setting, has a task worthy of Sisyphus, the legendary King of Corinth in Greek myth who was condemned to roll a heavy rock up a hill, only to have it roll down again.

—ALVIN W. COHN

Fines as an Alternative to Incarceration: The German Experience*

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IN THE UNITED STATES, as in many European countries, the last decade has seen much discussion and implementation of penal reform. However, the central penal reform issues and programs differ significantly among these nations, even though they are all modern industrial democracies. In the United States a central issue has been the institutional method for setting the length of sentences to incarceration—indeterminant vs. determinant sentencing (Miller, 1977). The more fundamental issue is the purpose to be served by incarceration—punishment or rehabilitation. Far less concern has been evidenced regarding whether the emphasis upon incarceration may produce a less than optimal mix of sanctions. In particular, there is only a miniscule amount of literature addressing the potential for greater use of fines in United States correctional policy.

The continuing commitment to incarceration as the primary means of social control in the United States for crime stands in sharp contrast to contemporary penal reform in European countries, where a major focus of penal reform involves reducing the use of incarceration, in large part, by more extensive and innovative use of fines.

The German penal reform of the last decade offers an important case study in the substitution of fines for incarceration; it deserves far more attention by United States policymakers than it has received. It is the purpose of this article to review this experience, and in so doing hopefully, to stimulate interest and research in the potential in the United States for substituting, at the margin, fines for incarceration.

German Penal Reform

In 1954 a Grand Commission for Penal Reform (Grosse Strafrechtskommission) was formed with a mandate to produce a new penal code to replace the existing code which dated back to 1871. The work of the Commission provided the basis for the official

government draft of 1962 (German Draft Penal Code E 1962). This draft was viewed by many reform-minded legal scholars as "no more than a codified commentary on the old penal code" (Eser, 1973: 247). This dissatisfaction crystallized in the form of an Alternative Draft produced by a group of young legal scholars (Baumann, 1977). As a result of this organized criticism and alternative proposals, there emerged from the legislative process a degree of change that surprised many.

Two major thrusts of the reform were decriminalization of many minor and moral offenses, and in sentencing, a shift in philosophy from "retributive justice" towards "resocialization" (Lee and Robertson, 1973: 191; Herrmann, 1976: 720). This change in philosophy was manifested by a general substitution of milder penalties, in particular, a decrease in the use of incarceration. And, even for serious offenses where incarceration remained the primary sanction, the previous more harsh "penal servitude" form of incarceration, was abolished; incarceration was to be uniform in nature for all offenses where this sanction was applied (Eser, 1973: 253).

For the less serious offenses, those which previously would have received prison sentences of 6 months or less, fines or suspended sentences were to replace incarceration altogether. The First Law Reforming the Penal Code, effective September 1, 1969, provided that prison terms of less than 6 months were to be replaced by fines or probation in all but exceptional cases. This policy was to be followed, general deterrence considerations, aside. Although short-term sentences were not abolished completely, a very significant reduction was achieved as is shown in table 1. In 1968 over 110,000 sentences to prison terms of less than 6 months were awarded; in 1976 this figure dropped to only about 10,000, even though total convictions rose—rather remarkable achievement.

This impressive shift away from short-term incarceration found support from two quite different rationales. One viewed prisons as "schools of crime" and thus not only incapable of effecting resocialization, but even counter productive in achieving this

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TABLE 1.—*Number of Persons Sentenced to Short Prison Terms and Persons Fined*

	1968	1969	1970	1971	1972
Total convicted:	572,629	530,947	553,692	571,423	591,719
Prison Terms of Less Than 6 Months, Without Suspension % of total	113,273 20%	64,073 12%	23,664 4%	22,207 4%	20,045 3%
Prison Term of Less Than 6 Months, With Suspension % of total	70,220 12%	68,088 13%	32,180 6%	32,875 6%	35,964 6%
A Fine Sentence % of total	361,074 63%	371,918 70%	464,818 84%	476,785 83%	494,399 84%
	1973	1974	1975	1976	
	601,419	599,368	567,605	592,514	
	17,747	18,033	11,350	10,704	
	3%	3%	2%	1.8%	
	37,482	41,427	35,802	36,349	
	6%	7%	6%	6%	
	504,266 84%	494,266 82%	472,577 83%	492,561 83%	

Source: Drucksache 7/1089, Deutscher Bundestag 7. Wahlperiode
17/10/73 and Federal Ministry of Justice.

goal. The other view professes faith in the possibility of resocialization under appropriate conditions of incarceration. These conditions include uncrowded prisons and incarceration-treatment-for an extended period (Jescheck, 1975: 305; Artz, 1979: 47). Part of the reform program was the creation of special institutions devoted to providing treatment. These institutions, however, have yet to be fully implemented because of budgetary restrictions; in addition, there now appears a growing doubt as to the efficacy of treatment (Kaiser, 1978: 419).

This increased use of fines was not a direct response to rising crime and the concomitant pressure on prosecutorial and court resources; nevertheless, it has helped to relieve these pressures. To fully appreciate the resource implications of the use of fines in Germany, one must be aware of two important aspects of German criminal law procedure: the "legality principle" and "penal orders." The legality principle requires German prosecutors to prosecute all serious crimes and, with exceptions, most misdemeanors (Langbein and Weinreb, 1978: 1561). Taken literally, the principle implies prosecution *not* negotiation. Indeed, some American legal scholars familiar with the important (essential) resource rationing role played by discretionary prosecution-plea bargaining-in the United States have characterized the adherence to the legality principle as a myth (Goldstein and Marcus, 1977). This skepticism, however, has been effectively criticized (Langbein and Weinreb, 1978: 1559). The plausibility of adherence to the legality principle is greatly enhanced by the availability to prosecutors of penal orders. The penal order is a form of summary prosecution and sentencing available to the prosecutor for less serious offenses, roughly misdemeanors and less serious felonies; only fines can be imposed by a penal order. On the basis of the police investigation, and in some cases his own, the prosecutor may determine guilt and levy a fine. Penal orders, however, do require judicial approval. Further, if the accused objects, the penal order is set aside and the case goes to trial, otherwise the fine is routinely enforced (Feldsteiner, 1979: 310). By using penal orders for the less serious crimes, but those which occur in great volume, prosecutorial resources are economized for use in prosecuting all serious crimes.

Although the shift from short-term imprisonment to the use of fines and suspended sentences went into effect in 1969, a further reform law, effective in 1975, introduced a day-fine system. The day-fine is a Scandinavian innovation used extensively in Sweden since 1931. The function of the day fine is to

divide fine sentencing into two distinct decisions. The first is an assignment of the number of day fines according to the degree of guilt and gravity of the offense. The second is to explicitly consider the economic status of the offender and assign a unit value to the day fine for the particular offender. The absolute amount of the fine is the product of the unit value and the number of day fines. The result is a fine system which seeks to punish equally offenses of similar gravity but at the same time, given the penalty is monetary, to achieve equity across offenders of disparate financial means. While a great many legal systems recognize the equity issue in the use of fines, most deal with it in a far less explicit manner. Indeed, it is fair to say that for some United States observers the equity issue precludes greater use of fines in the United States. However, all jurisdictions in the United States use basically a flat fine system.

Fines in Practice

The basic legal provisions of the day-fine system are that the number of day fines which may be levied for an offense are restricted to a minimum of 5 to a maximum of 360. The permissible range for the unit value assessment cannot be less than 2 Deutsche Marks nor more than 10,000 Deutsche Marks. In assigning the unit value in individual cases a concept of net income is to be used. The legal guideline states, "The day-fine is the average sum of money which may be daily chargeable to the offender taking into account his income, his realizable assets, his actual standard of living, his maintenance responsibilities, his normal expenditure and his family situation" (Beristan, 1976: 260). In the event of default, incarceration may be substituted in the ratio of one day of incarceration for each unpaid day-fine.

Although there appears to be general acceptance of the goals of the day-fine system, legal scholars and legal practitioners have voiced criticisms of certain aspects of it. There is some concern that the basic objective of separating the seriousness measure of the crime from the economic status of the offender is not being observed in practice. Rather the amount of the fine is established first, based upon previous practice, and then the number of day-fines and unit value assessment are set to be consistent with the prior determined amount (Driendl, 1976: 1142). However, it is also recognized that for many high volume, minor routine offenses it would be impractical, and perhaps even wasteful, to expend a great deal of resources on an accurate determination of the offender's net income (Greibl-

ing, 1976: 1087). Felstiner observed in his study that when a penal order is used the defendant will not even know what income the prosecutor has attributed to him (Felstiner, 1979: 312). The offender can judge the "fairness" of the fine only by comparing the absolute value to fines levied on individuals for the same offense and having a similar income. In principle, a day fine sentence levied by a judge would explicitly state both the number and unit value components used to arrive at the total fine. Another concern is that the determination of income must rely only upon the offender's statements and indirect evidence such as occupation (Driendl, 1976: 1147). Further, the defendant is under no obligation to cooperate with the court, and direct measures, such as tax information, are not available.

Observers have also criticized the very high potential maximum fine that could be levied, 3.6 million DM (360 times 10,000DM). At current exchange rates this would be about \$1.8 million; judged by United States criminal statutes this is exceedingly high (Grebling, 1976: 1067; Herrman, 1976: 731; Jescheck, 1975: 307). This criticism, however, appears to be exclusively theoretical inasmuch as actual fines levied have been criticized as being too low (Driendl, 1976: 1147, 1149; Grebling, 1976: 1061). The basis for this criticism of low fines is the inference that fines have not yet been applied to more serious crimes. It is reported that less than 1 percent of all day fines have unit value greater than 50 DM (Kaiser, 1978: 417). However, another study which compares data from 1972 with data from 1975, finds a significant increase in fines of higher amounts. This result is taken to indicate that greater equity in the use of fines is being realized by higher income offenders paying larger fines (Albrecht, 1978: 3). Published data, presented below, also shows that fines are being used for a wide range of offenses, including offenses which would be considered serious by American standards.

The provision that permits incarceration in the event of default has also been criticized both because the substitution of a day of incarceration for every day fine is unpaid is too harsh and because some object to use of incarceration at all (Beristan, 1976: 26; Driendl, 1976: 1152, 1154). In fact, however, the use of incarceration as an enforcement mechanism is relatively rare. It is reported that only 2.7 percent to 4 percent of all cases involve incarceration (Kaiser, 1978: 417; Albrecht, 1978: 4).

One of the most important concerns regarding the substitution of fines for imprisonment is the efficacy of a fine as a deterrent to future criminal

behavior. Only one study could be found that addressed this issue. Since fines are used most frequently for first offenders, the study compared two groups of first offenders, one group which received fines and the other which received a prison sentence. The reconviction rate was 16 percent for those who were fined and 50 percent for those who were imprisoned (Albrecht 1978: 5). Without further information on what other characteristics might have distinguished the two groups, e.g., nature of offense, age, etc., these results must be considered as providing only the most tentative of answers to the question of relative effectiveness of the two sanctions. This qualification, notwithstanding, the data provide support for the effectiveness of fines as used in Germany and suggest that the sentencing reform has not imposed a cost in the form of higher levels of crime.

Sentencing Patterns

Although most observers of the German penal system note the very high percentage of all penal code convictions disposed of by fines, this can be misleading if used for comparative purposes with other country's sentencing patterns. The reason is that the scope of the penal code, i.e., the types of deviant behavior which are criminalized, may vary considerably between countries. Consequently, we use data which are not only crime specific, but also are restricted to types of behavior which are criminalized in all industrialized democracies. However, even at this lower level of aggregation legal definitions of similar "act," e.g., robbery, may still differ in important ways between countries. But for a comparison of general sentencing patterns we feel that the classifications are sufficiently similar.

The data on sentencing patterns are presented in table 2. The data show that fines are used extensively for a wide range of offenses, including many which would be considered moderately serious to serious in nature. Of all convictions for crimes against the person 66 percent were disposed of by a fine; for all theft and embezzlement convictions, 76 percent were disposed of with a fine; finally, of all fraud, fencing and forgery convictions 77 percent were disposed of by a fine. These three categories comprise 88 percent of all convictions tabulated in table 2. Within these three major categories it is noteworthy that theft offenses involving force or violence, breaking and entering and robbery, were dealt with to a far less extent with fines and far more by incarceration. However, these two sub-categories account for only 8 percent of all convictions in the three categories discussed. This very

TABLE 2.—Crimes Against the German Penal Code and Sanctions Imposed—1977¹

	Total Sentenced ²	Immediate Incarceration	Fine	All Other
Criminal Acts Against the State and Public Order	13,818 (6%)	972 7%	10,997 80%	1,879 14%
Criminal Acts Against Sexual Sovereignty	5,327 (2%)	1,503 28%	1,860 35%	1,964 37%
Crimes Against the Person—	46,550 (19%)	3,795 8%	30,633 66%	12,122 26%
<i>Of Which:</i>				
Assaults and Assault Type Offenses	20,446 (8%)	1,429 7%	15,980 78%	3,037 15%
Theft and Embezzlement—	111,694 (45%)	12,873 12%	85,323 76%	13,498 12%
<i>Of Which:</i>				
Breaking and Entering to Steal	14,666 (6%)	6,465 44%	2,698 18%	5,503 38%
Embezzlement	5,301 (2%)	395 7%	4,180 78%	726 14%
Robbery and Extortion	2,641 (1%)	1,725 65%	142 5%	774 29%
Fraud, Fencing, Forgery and Debt Related Offenses	59,189 (24%)	5,031 8%	45,478 77%	8,680 15%
Crimes Dangerous to the Public	8,573 (3%)	991 12%	6,182 72%	1,400 15%
Total of All Above:	247,792 100%	26,890 11%	180,595 73%	40,317 16%

¹ Source: Straßverfolgungstatistik, 1977, table 6.² Percentages in parentheses are the distribution of sentences among offenses; other percentages are the distribution of sanctions over each offense.

low percentage of these violent crimes in Germany must also contribute to the high overall use of fines for all offenses recorded in the table. However, differences in criminality patterns notwithstanding, Germany's sentencing policy which emphasizes fines in lieu of incarceration must be the major explanation for the low overall rate, 11 percent, of incarceration and high rate, 73 percent, of fines.

To illustrate the significant difference in the role accorded fines as a criminal sanction in Germany compared to a United States jurisdiction, the sentencing patterns for similar offenses of the Superior court of Washington, D.C., are given in

table 3. Among the offenses which account for 10 percent or more of all sentences the greatest use of fines, 14 percent, is for drug offenses. Surprisingly, only 2 percent of all larceny sentences are fines. For all sentences, fines comprise only 6 percent and this includes a substantial number of victimless crimes.

Conclusion

An overall assessment of the German experience, as it relates to the substitution of fines for incarceration, is that it has accomplished this goal without either a significant cost in terms of higher rates of crime or incarceration for fine default. A more

TABLE 3.—*Defendants Sentenced in Superior Court of Washington, D.C.—1974*

Offense Type ¹	Total Sentenced ²	Sanction Imposed		
		Incarceration	Fine Only	All Other
Assault	578 (12%)	146 25%	20 4%	412 71%
Burglary	578 (12%)	298 52%	5 1%	275 48%
Larceny	738 (15%)	259 35%	14 2%	465 63%
Stolen Vehicles	152 (3%)	87 57%	2 1%	63 41%
Forgery and Counterfeiting	70 (1%)	21 30%	1 1%	48 69%
Fraud	87 (2%)	28 32%	1 1%	58 67%
Embezzlement	23 (1%)	2 9%	6 26%	15 65%
Sex Offenses	81 (2%)	56 69%	0 0%	25 39%
Dangerous Drugs	545 (11%)	79 15%	74 14%	392 72%
Stolen Property Dealing	199 (4%)	42 21%	21 -%	136 68%
Weapons Offenses	537 (11%)	113 21%	32 6%	392 73%
All Other	634 (13%)	135 21%	106 17%	393 62%
Total Sentences	4,900 (100%)	1,765 36%	287 6%	2,848 58%

¹ Charges originally classified by local penal code are classified here by SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) codes.

² Percentages in parentheses give distribution of defendants among offenses; other percentages give distribution of sanctions imposed for each offense.

Source: 1974 PROMIS data tape from the Inter-University Consortium for Political and Social Research.

humanitarian system of punishment has been created.

Humanitarian motives are commendable; however, they need not be the primary attraction of fines. From an economic perspective, fines offer society a far less costly form of punishment than incarceration. Any evaluation of a greater use of fines in United States policy should consider both aspects.

Although the correctional literature has largely ignored the potential role of fines, it is interesting to note that there is a growing interest in restitution (Bridges, *et al.*, 1979). In an economic sense, fines and restitution are simply different forms of monetary penalties; fines are paid in cash and restitution may be in cash or in kind. However, both represent a lower economic cost to society of punishment than incarceration. The use of incarceration

reduces the total economic output of society by immobilizing the labor resources of the offender and society's resources needed to enforce the sentence. By substituting, at the margin, monetary penalties for incarceration more resources become available for economic production and an economic gain is realized. The difference between fines and restitution rests in how this gain is distributed. Fines distribute it exclusively to taxpayers, while restitution distributes it, in part, to the offender's victim. Which distribution is superior is an ethical, not an economic, judgment. The economic judgment is that, other things equal, monetary penalties, in either form, are superior to incarceration.

Concern over the victim of crime may be one reason why restitution is the favored form of monetary penalty in United States correctional literature; however, it is not the only explanation.

One of the most basic issues in contemporary correctional philosophy is the degree to which sentencing policy should be based upon rehabilitation or upon "just deserts." Those advocating restitution also see it as a method of effecting rehabilitation.

...restitution can provide a low cost, middle ground approach for corrections which can satisfy society's demands for punishment as well as the offender's needs for rehabilitation. This approach would also recognize and serve the badly neglected victims of crime, as well. (Bridges, *op. cit.*, p. 29)

Monetary penalties in the form of fines emphasize the punishment aspect and, thus, reflect a "just deserts" philosophy.

We conclude that the German experience as well as the economic costs of punishment

establish a strong presumption that United States sentencing policy falls short of the optimal use of monetary penalties, whether in the form of fines or restitution, as an alternative to incarceration.

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Assessing Parole Violation Rates by Means of the Survivor Cohort Method

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WHAT was once accepted as a truism, that the probability of parole violation is highest during the early months of the parole period, is now being questioned by an increasing number of investigators. The reader is referred to articles by Berecochea, et al.,¹ Kantrowitz,² and Minor and Courlander³ for background material and for citations of other works in this area. From this author's perspective, the data presented so far do not affirm or deny the existence of an accelerated violation rate during the early months on parole. Berecochea opined that "it would seem necessary to re-evaluate the notion that the first few months on

parole represent a 'crucial' period in the career of the average parolee." Minor and Courlander felt that the statistical data tended to support the "postrelease trauma thesis" but suggested that this was an artifact of the organizational process. For the most part, the data presented in the literature to date were not developed for the specific purpose of testing the early violation theory and thus do not provide a definitive answer to the question.

It will be the purpose of this article to present additional data relating to the issue of whether the early months on parole are the most risk-prone. The data were prepared in tabular and in graphic form but, due to space limitations, only the graphic material will be presented. The graphic data are a faithful representation of the data contained in the tables, copies of which are available from the author. The recidivism rates referred to are based on the cohort method of assessing success/failure. That is, a monthly or yearly release cohort is targeted as the

¹ John Berecochea, Alfred Himelsohn, and Donak Miller, "The Risk of Failure During the Early Parole Period: A Methodological Note," *The Journal of Criminal Law, Criminology and Police Science*, 1973, Vol. 63 No. 1.

² Nathan Kantrowitz, "How to Shorten the Followup Period in Parole Studies," *Journal of Research in Crime and Delinquency*, July 1977.

³ William Minor, and Michael Courlander, "The Postrelease Trauma Thesis," *Journal of Research in Crime and Delinquency*, July 1978.

study group and this cohort is followed for a predetermined period of months or years. Each member of the cohort receives the same exposure period although, of course, many violate or complete parole successfully before the end of the followup period.

Methods of Computing Parole Failure

Berecochea cites three different methods of computing parole failure rates. Two of these methods have been used almost exclusively in the past to present parole recidivism statistics. It is exactly these methods that gave rise to the belief in the early violation pattern. Of these two methods, the most common utilizes the total number released to parole as the denominator with the numerator being the number of violators each month. Cumulating the monthly violation rates in this instance produces a total recidivism rate for any desired followup period. This cumulative figure will always be less than 100 percent.

The second method computes the failure rate by dividing the number of failures each month (numerator) by the total number of failures during the followup period (denominator). In this instance, the recidivism rate will always accumulate to 100 percent. Both of the methods just described will invariably produce monthly violation rates that are higher during the first year of the parole period and that decline dramatically in the latter months.

The third method of assessing parole failure is to divide the monthly number of violators by the total release cohort, less those removed from parole during the month. This method has been mentioned in the literature on enough occasions so that it is not unique to one author; however, the data presented so far utilizing this method had not ruled out completely that the early parole period is the most risk prone period. (See previous citations.) In describing this latter method, we will use the term "survivor cohort," a shortened version of Berecochea's label.

In assessing violation rates by month by means of the survivor cohort method, the methodology is briefly as follows. Monthly releases are the lowest practical unit for followup and the releases are assumed to be evenly distributed throughout the month (as are the removals). Each month, the total releases are added and the total removals (successes and failures) are subtracted. Then the beginning and ending month figures are averaged for an average at-risk parole cohort. The number of violators each month is then divided by the average at-risk parole cohort to obtain a monthly percent violator figure.

This is continued for the length of the followup period, in this instance 48 months.

Definition of Terms

At this point, a word about the data and the definitions of success/failure. The California Youth Authority has been collecting detailed information on institution and parole movements since the formation of the department in the early 1940's. For purposes of this study, the 1972 release cohort was selected and the parole followup period was set at 48 months. At the end of 48 months, all cases still on parole were arbitrarily assigned to the success category. The definition of failure was any removal from parole because of an action by the Youth Authority Board, either revoking parole or discharging the ward from Youth Authority Board, either revoking parole or discharging the ward from Youth Authority jurisdiction because of a commitment to an adult correctional agency, or because of an AWOL or missing status.

The key element in the above definition is the phrase "removal from parole." CYA wards are not posted as failures until the date of removal from parole. Since most parole violations involve new offenses, which must be adjudicated before the California Youth Authority will entertain a violation action, the length of time between the commission of a new offense and removal from parole can be quite long. Thus, it is unlikely under current California Youth Authority policy to have many parole violators appearing in the statistics during the early months of the parole period. Certainly, the statistics for the first 3 months of parole will not reveal the true rate of criminal activity of wards since it is probable that the average time between commission of an offense and removal from parole is 3 months.

Another problem that this presents is in reference to AWOL or missing cases. Once again, the AWOL date is not the date that is counted—rather, it is the date removed from parole because of AWOL status. Typically, this is the date at which the ward's term expires because of age limitations.

Examination of the Data

In order to perform this analysis, the 1972 cohort year was selected. A more recent cohort of releases could have been selected but there were some significant legislative changes and court decisions in 1976, 1977, and 1978, which affected sentencing and parole practices in California. These changes tended to shorten parole periods and brought about some mass discharges from parole jurisdiction. As a result, the data on later cohort years would show

FIGURE 1
Violators as a Percent of Total Violators (A)
Violators as a Percent of Total Released (B)
1972 Release Cohort Followed 48 Months

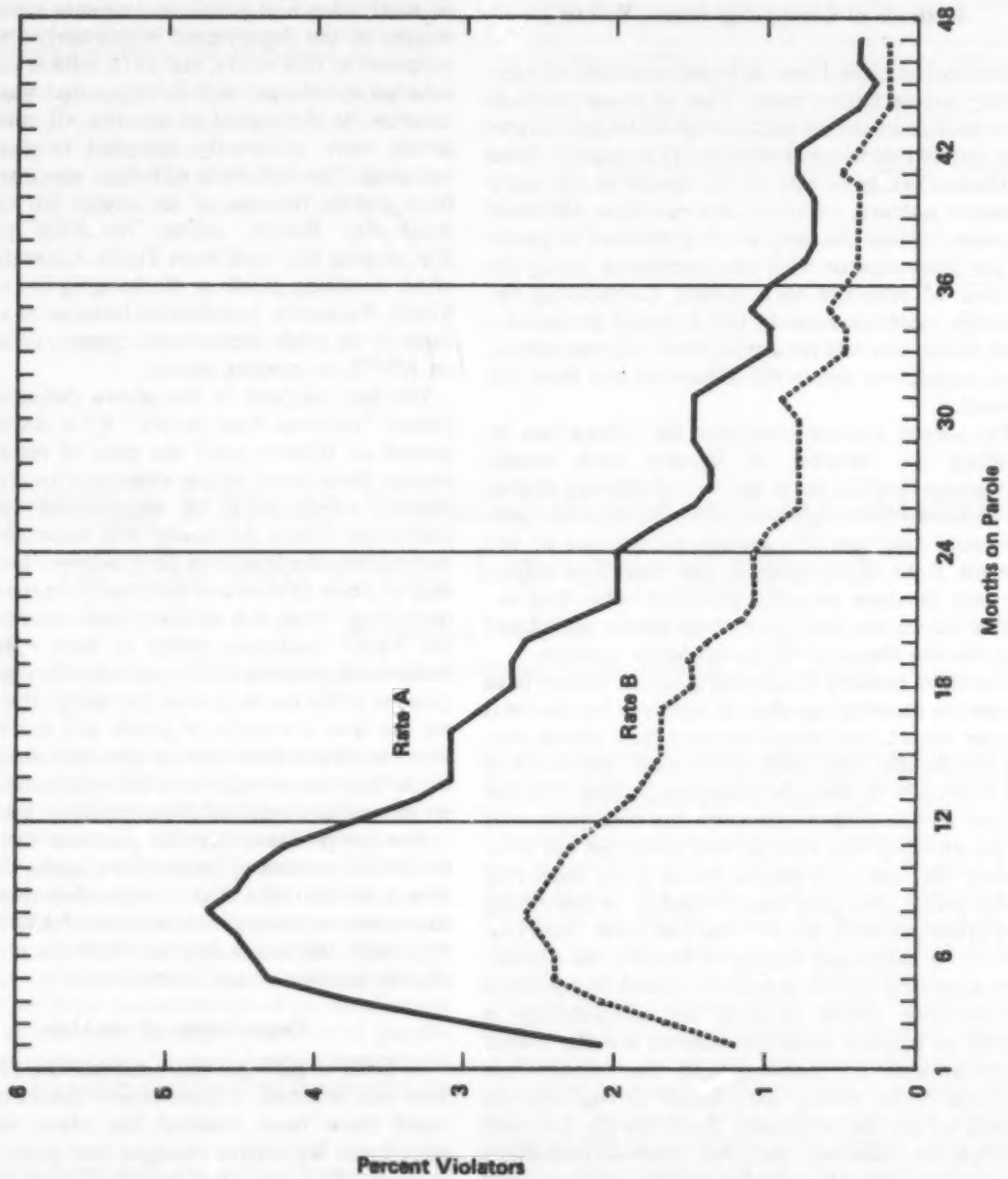
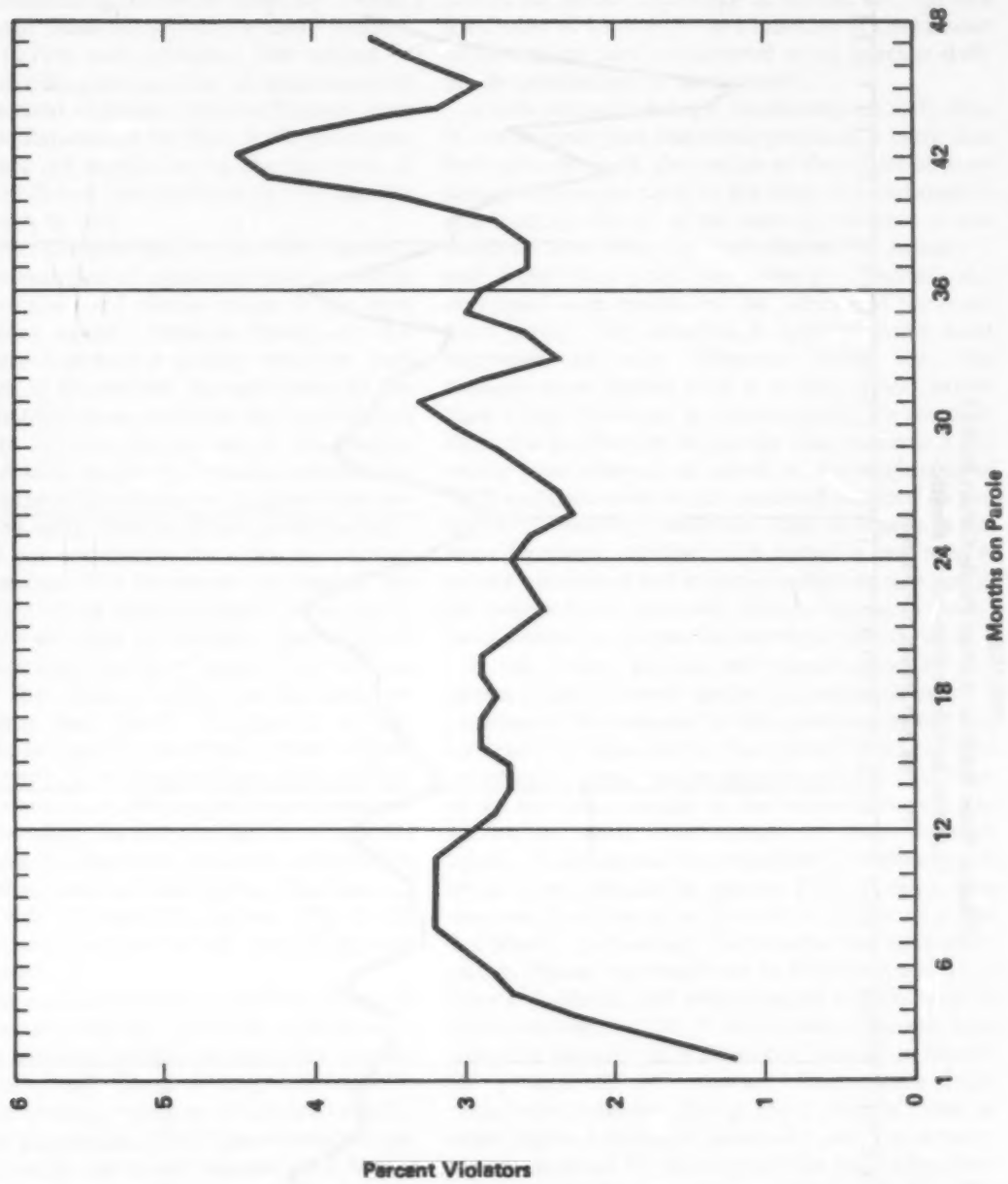


FIGURE 2
Violation Rates Based on At Risk Parole Cohort Method
1972 Release Cohort Followed 48 Months
(By Months on parole prior to removal)



unusual aberrations and thus interfere with trend analysis.

Figure 1 shows the data for the 1972 release cohort in terms of the two more commonly accepted methods of calculating violation rates by month. The first method (Rate A) utilizes the total violators as the base (2,764) and calculates the percent of violators by dividing the number of violators each month by the total violators. Note in Figure 1 that the monthly violation rate for Rate A climbs to just under 5 percent per month during the first year of the parole period and then declines rather steadily to a low of close to zero.

A similar situation prevails for the other commonly used representation of violation rate by month (Rate B). Here the total release cohort is the base (4,959) with each month's violators divided by this number. Figure 1 reveals a similar trend for both rates although in the second example (Rate B) the individual monthly rates are lower than in the first example (Rate A). This is because of the smaller base in Rate A than in Rate B. In each instance, the data seem to support the theory of a higher violation rate during the early months of the parole period.

But this is not necessarily the case. As pointed out by Berecochea, it is important to consider the answer in terms of the question being asked. If the question is: "Of all those who violated parole within 48 months, how long were they on parole at the time of removal," then Rate A gives the best answer. Rate B, in turn, responds to the question of how many (or what percent) of the release cohort violate parole each month. The accumulation of the monthly figures produces a violation rate that is commonly used in assessing the success/failure of institutional programs. Neither rate, however, answers the question of what period of time during the followup period is the risk of failure the highest. This is the question that the survivor cohort method is best suited to answer.

One method of constructing a survivor cohort is to take a month's releases to parole and for each month of the followup period, subtract the number removed from parole. Then, average the monthly beginning and ending counts to arrive at a monthly average daily population. This figure becomes the denominator, while the total failures each month becomes the numerator. Each monthly release cohort could be handled in the same manner, giving 12 separate expressions of failure rates for the 1972 releases. Because monthly release cohorts lack stability due to the relatively small number released each month, it is appropriate to combine the monthly data into a yearly release cohort. To smooth out

the irregular nature of the monthly fluctuations, a 3-month moving average was calculated and this was plotted in Figure 2. In this example, the question addressed is the proportion of violators after 1 month on parole, 2 months on parole, etc., up to a maximum of 48 months as a function of the number remaining on parole expressed as an average daily parole population for each month.

A note on methodology. Combining monthly data in the manner just described produces a table that does not represent the reality of the situation even though it does no harm to the data. For instance, in constructing the table for January releases it was assumed that everyone was released on January 1 and from that point the average caseload size decreased each month by the number of removals from parole. This situation is approximately what happened—the only difference being that the releases were spread over a 31-day period rather than 1 day. However, in accumulating the monthly data, the implication is that (in this instance) 4,959 wards were released on parole at the beginning of 1972 and from then on the caseload dropped by virtue of the monthly removals. This, of course, is not what happened. Rather, each month a new release cohort was added and in turn a certain proportion of the caseload was removed. This brings us to the second method of presenting survivor cohort data.

In this method we take each release cohort for each month of the 12-month period and add each month's releases to the releases for the previous month and subtract the removals for that month in order to get an average number on parole each month. This is used as the denominator of the expression with the numerator being the number of violators each month. To illustrate the procedure: In January, 420 wards were released to parole. Five of these were removed from parole in January, 5 in February, and 6 in March. In February, 443 wards were released to parole. Three were removed in February and 11 in March. In March, 492 were released to parole and 10 were removed. So far, 5 wards were removed from parole in January, 8 in February, and 27 in March, for a total of 40 removals. There were 1,355 cumulative releases during the 3 months, less 40 removals for a March 31 count of 1,315. The average at-risk caseload for March was the beginning (850) and ending (1,315) month count divided by two. The violation rate is then the quotient of 1,082 (average at-risk) divided into the 16 violators in March. These 16 violators came from the January, February, and March releases.

These data are represented in Figure 3. In Figure 3, the data are plotted for more than 48 months

because a yearly release cohort with a possible exposure period of 48 months on parole necessitates a total followup of 60 months rather than 48. As before, the data are plotted using a 3-month moving average.

Findings and Conclusions

The two methods of calculating survivor cohort data provide essentially similar results even though the question that is answered in each instance is slightly different. The monthly violation rates in Figure 2 have no relation to a temporal sequence, i.e., January, February, and March, but rather relate only to how long after release the removal from parole occurred. A ward released in February and removed in April would be included in the same group as ward released in July and removed in September. The data reflected in Figure 3, however, places each of these wards in different groups because the question asked relates solely to the calendar month of violation. In Figure 3 the violation number in March of 1972 represents violators from the release cohorts of January, February, and March. The violation number in September of 1972 represents violators from the release cohorts of January through September of 1972 and so on.

As mentioned earlier, the slope of the line during the initial months of the parole period has little meaning in terms of when the actual violation occurred, and thus is not an indication of the degree of risk during the initial parole period. By the very nature of the way violations are handled on parole, the percentage must start at zero and rise rapidly to a certain level. The question that remains to be answered is whether the violation rate stays at this level or declines back to a near zero level.

At the other end of the spectrum, there is the phenomenon of the upward fluctuation in the violation rate near the end of the followup period. In both Figures 2 and 3, the violation rate for the last year of the followup period is higher than for the preceding years. For instance, in Figure 2, the average violation rate by month for the first 12 months was 2.5 percent. For the next 24-month period, the average rate was 2.7 percent per month. For the last 12-month period, the average monthly rate was 3.4 percent. The reason for the upward

thrust in the last year is that during this period, the California Youth Authority was operating under laws requiring the discharge of juvenile court wards at age 21 and criminal court wards at age 23 (or in some cases 25). Thus, many wards entering their fourth year of parole were approaching a mandatory discharge date. In addition, many of the mandatory discharges were A.W.O.L. So, this induced one or both of the following events: an acceleration in the total number being removed each month, thus sharply reducing the "at-risk" group; and an abnormal increase in the number of violational removals because of an AWOL or missing status.

Because of the factors that affect both ends of the trend line, it would be appropriate to disregard the first few months of the parole experience and to similarly disregard the latter months of the exposure period. The question then remains: Does the violation rate during the intervening months reveal a trend that would support a hypothesis of no basic difference in the violation rate over time? It is fairly obvious from the figures presented that after the initial acceleration, the violation rate as a percent of the total at risk does not increase or decrease significantly. In fact, the trend is toward a straight line extending over a period of approximately 3 years. In order to validate these results, the 1973 releases were plotted in a similar fashion (not shown). Both release years revealed the erratic upward nature of the curve during the last months of the period and the slow start at the beginning of the period with the trend for intervening years being fairly similar.

It would appear from the data presented here that there is no strong case for the belief that the early months of the parole period produce higher violation rates than do the later periods. In all probability, violation rates are directly linked to the parole caseload at risk, and do not change significantly over time. Even though the data for the California Youth Authority shows a peaking phenomenon near the end of the followup period, it is believed that this is an artifact of the laws that specify the maximum age of Youth Authority jurisdiction. It is hypothesized that survivor cohort violation rates from adult correctional agencies (particularly those with indeterminate sentencing) would not show this peaking phenomenon in the latter months.

Purchasing Services in a Community-Based Juvenile Corrections System: The Ohio Experience

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THE CONCEPT of purchase of service in a community-based corrections system is gaining widespread popularity. However, descriptions of how the concept works in practice are virtually absent from the literature.

The purpose of this article is to describe the purchase of service system which the Ohio Youth Commission, state juvenile corrections agency, uses in its community-based corrections program. Background information is first presented to assist the reader in understanding the context of juvenile corrections and the purchase of service concept. The article is written from the perspective of the state corrections official, but attempts to understand the perspective of the private agencies which provide service to youth.

Background

State agencies established to control and prevent

juvenile delinquency traditionally had been oriented to the use of training schools, youth camps, and correctional centers.¹ Despite the fact that correctional agencies continue to place great reliance on institutions, the number of youth who are placed in community-based programs is expanding.² With the increased number of youth in community-based programs, the importance of these programs has correspondingly increased. The role that the state juvenile corrections agency should play has been addressed by the Task Force on Juvenile Justice and Delinquency Prevention.

The state agency may directly provide all services or it may contract with the private sector or with other public agencies to provide such services. When services are contracted for, the state agency should retain responsibility for monitoring and enforcing program standards in the same manner prescribed for State-operated programs.³

With the advent of community-based corrections, the concept of contracting with the private sector or "purchase of services" has begun to receive attention.

Arguments for Purchase of Service Concept

In support of this concept, proponents cite a number of arguments: greater flexibility, ease of the development of new programs, greater diversity and innovation of new programs, increased support for community corrections by the private sector, avoidance of civil service requirements (ease of hiring and firing) and other bureaucratic problems, and lower than state-operated program costs. These benefits are not realized in a state-operated community corrections program.

Former Massachusetts Commissioner of the Department of Youth Services, Joseph Leavey, illustrated some of the merits of a purchase of service system when he stated:

If you're going to close a state program it takes a damn revolution, like we had in this state. If you're talking about private programs it is much easier for us to go in and say, Hey, we don't need you. You're not providing the services you said you would, (so) we're not renewing your contract.⁴

¹ The National Assessment of Juvenile Corrections (NAJC) reported that in fiscal year 1974 state agencies for juvenile corrections spent approximately 90 percent of their budgets on their institutions and 10 percent on community-based residential programs. In terms of the percentages of youth in each type of program, 80 percent of the juvenile offenders were in institutions and 17 percent were in community-based residential programs. Vintura, Robert, et al., *Juvenile Corrections in the States*, National Assessment of Juvenile Corrections, November 1975, p. 31 and p. 9.

The term "community-based" is used to designate programs which allow clients significant quantity and quality of community contact. See Robert Coates, "A Working Paper on Community-Based Corrections: Concept, Historical Development, Impact and Potential Dangers," (Harvard Law School, Center for Criminal Justice, 1974): "The words 'community-based' focus our attention on the nature of the linkages between programs and the community. A key set of variables which sharply focuses on this linkage notion which provides a basis for differentiation among programs is the extent and quality of relationships between program staff, clients and the community in which the program is located... The nature of these client and staff relationships with the community provides the underpinning for a continuum of services ranging from the least to the most community-based." (p.8)

² The 1971 LEAA Bureau of Census counted 1,045 youth in community-based residential programs, the 1973 LEAA/Census identified 1,600 youth, and the NAJC researchers counted 5,963 youth in 1974. This increase in the number of youth in community-based programs could be an indication of more youth being diverted from institutions or an indication of correctional agencies "widening their net" by attracting youth who except for the community-based programs, would remain in their own homes. The former explanation seems, unfortunately, to be the case. (Vintura, et al., op.cit., p.32.) also see Lerman, Paul, *Community Treatment and Social Control*, Vintura, et al., op.cit. pp. 76-77; and Rutherford, Andrew and Bengur, Gerson, *Community-Based Alternatives to Juvenile Incarceration*, LEAA, October 1976, pp. 50-51.

³ *Juvenile Justice and Delinquency Prevention, Report of the Task Force on Juvenile Justice and Delinquency Prevention, National Advisory Commission on Criminal Justice Standards and Goals*, 1973, p. 615.

⁴ Massachusetts: Officials Say Juvenile System Works, *Corrections Magazine*, May-June, 1975, p.36. Also see Kassenbaum, Gena, et al., *Contracting for Correctional Services in the Community*, Volume 1, LEAA, May 1978, pp. 9-8 and 31.

There is no disputing the fact that states which rely solely or primarily on the purchase of service system or "state-funded programs" have far outstripped states that rely primarily on "state-operated programs." The NAJC researchers found that:

Of the 44 states that had one or both kinds of community based programs, eighteen used both approaches, sixteen relied entirely on state-funded programs, and ten reported that state funds were used only for state-run community based programs...The dominant pattern is reliance entirely or mainly on state funded services.⁵

State funded services avoid or at least alleviate a major problem of state-operated programs.

State-operated programs usually have difficulty in eliciting community involvement. Such programs are sometimes seen as being the responsibility of the state and not the local community. The involvement of local citizens as members of boards of trustees or advisory boards attempting to deal with local problems brings a degree of local ownership and "community control" which are powerful incentives for widespread community involvement and support.

Criticism of Purchase of Service

The purchase of service system is not without its critics. Justine Wise Polier, retired judge of the New York Family Court, warns against a tendency of many people to have "euphoric faith" in the purchase of services from private agencies.⁶ Judge Polier points out that in New York the voluntary agencies often screen out the child most in need of service because they want a high percentage of successes. Moreover, these agencies also discriminate

against children on the basis of race or religion. Thus blacks and Puerto Ricans and some non-Catholic or non-Jewish children are denied admission to programs because these programs were established to serve whites, Catholics, and Jewish children and they draw their financial support from these segments of the community.⁷

Another problem of the purchase of service system is that well-established private agencies can become as bureaucratic as the state corrections agencies. If these agencies control enough services that the state cannot turn elsewhere for similar services, then the private agency and not the state agency can dictate which youth will be served and the quality of those services. When this occurs, the quality of service is likely to decrease and youth in most need of services may not receive the service.

Finally, while child abuse in state operated institutions has been well documented,⁸ only recently similar abuse in private agencies has come to light.⁹

Quality of Services

Given these problems and the advantages of a state-funded (or purchase of service) system noted above, which system (state-funded or state-run) delivers a better quality of service? Vinter, *et al.*, conclude there is no difference.

And we have no evidence from this survey, from NAJC's on-site studies of all types of correctional programs, from the research of others, or from the reports of state administrators indicating any general quality differences between state-run and state-funded community services.¹⁰

If there are no differences in the quality of service, can we say with any confidence that the purchase of service system is superior to the state-operated system? Certainly, each seems to have resulted in different problems.

It seems fair to say that the weaknesses of state-operated programs are inherent and irresolvable while weaknesses of state-funded programs are more open to amelioration. Realistically, the civil service system is not going to allow rapid hiring and firing and state programs will not be able to win the same level of community support as private programs. The question becomes, how can quality services be provided to all youth that require services?

Monitoring and Accountability

What is required for a purchase of service system to be effective is accountability, which can be achieved only through monitoring.¹¹ Monitoring has been defined as "...those procedures which are used for the direct review of program operations..."¹² One form of monitoring is social ac-

⁵ Vinters, *et al.*, *op.cit.*, p.43 and p.53. Also see Rutherford and Bengun, *op.cit.*, p.23.

⁶ "Myths and Realities in the Search for Juvenile Justice," *Harvard Educational Review*, Vol.44, No.1, February 1974, p. 123.

⁷ *Ibid.*, p.123. Also see *The PINS Child: A Plthora of Problems*, Office of Children's Services, Judicial Conference of the State of New York, 1973, p.76.

Even proponents of purchase of service recognize the problems of "skimming" or "taking only the most intelligent, well-behaved youngsters and refusing to take those who they think will cause them problems." "Juvenile Corrections in Massachusetts," *Corrections Magazine*, Nov.-Dec., 1975, p.8.

⁸ See, for example, James Howard, *Children in Trouble*, The Christian Science Publishing Society, 1969.

⁹ Wooden, Kenneth, *Weeping in the Playtime of Others*, McGraw-Hill, 1976.

There has also been increased coverage of private programs abusing in such popular programs as "60 Minutes."

¹⁰ *Op.cit.*, p.71.

¹¹ It should be noted that monitoring and accountability are noticeably absent in the entire field of juvenile justice. See, for example, Nejelaki, Paul and LaPook, Judith, "Monitoring the Juvenile Justice System: How Can You Tell Where You're Going, If you Don't Know Where you Are?" *The American Criminal Law Review*, Vol. 12:9, 1974, p.13. "The most important negative aspect...of our services to children is almost complete lack of accountability on the part of juvenile organizations." Also see Wolfgang, Marvin, "Making the Criminal Justice System Accountable," *Crime and Delinquency*, Vol. 18, No.1, January 1972, p.15. "The so-called system...has no moral conscience, no need to report to its immediate neighbors, let alone external agents."

¹² Tripodi, Tony *et al.*, *Social Program Evaluation*, F.E. Peacock Publishers, Inc., Itasca, Illinois, 1971, p.64.

counting which is used "for recording and keeping track of program beneficiaries."¹³

In addition to the objectives of reviewing, recording, and keeping track of the effects of the programs, monitoring can be used as a management tool to determine whether certain expectations are being met, to identify technical assistance needed by service providers, to guide the decision of the state agency to increase, decrease, or maintain the quantity of services purchased, and finally to determine whether to renew or terminate a contract with service providers.¹⁴

It is not surprising to find that in Massachusetts, which in 1971-1972 pioneered community-based state-funded programming, the monitoring system was inadequate. One report on the Massachusetts Department of Youth Services states that:

(The director) and his staff failed to monitor either the financial management or the quality of the private programs with the result that large sums were unaccounted for in programs of questionable quality, many of which folded or were closed down after he left office.¹⁵

It should be noted that several private agencies were forced to close, not because they did not deliver quality service, but because of the inability of the Department of Youth Services to meet its financial obligations.

Another study of the Massachusetts experience found:

During 1973 many of the groups that provided services, and in particular foster parents, were put to very severe financial strain with the agency being on many occasions unable to pay for the services it had purchased. This occurred, in the main, because the financial mechanism had not developed at the same place as the other major structural changes in the agency.¹⁶

It is distressing, however, to note that several years have passed without notable improvements in the monitoring ability of state agencies. In their 1975 review of 12 representative community-based site locations, Rutherford and Bengur found that, "monitoring of private agency programs appears to be limited or non-existent."¹⁷

That the Massachusetts Division for Youth Services was unable to deal with the myriad of problems surrounding the closing of all state-operated institutions for juvenile offenders and develop an

adequate system of monitoring state-funded community programs is understandable. What is less understandable is why states which have sought only to reduce institutional populations by utilizing community-based programs have not developed a greater ability to monitor programs.

In order to assess the current use of purchase-of-service throughout the country, the Ohio Youth Commission in 1978 mailed surveys to state juvenile correctional agencies in 49 states and the District of Columbia. Of the 34 states which responded, 29 or 85 percent indicated use of purchase-of-service. Most states reached the same conclusions as the researchers of community corrections programs cited earlier; that is, they indicated that purchase-of-service allowed great diversity and flexibility in their community-based programs. On the other hand, several states indicated that monitoring of their purchase-of-service system was a problem.¹⁸

The OYC Experience

Experience of the Ohio Youth Commission (OYC) parallels that of other state juvenile corrections agencies. In 1971 there were approximately 2,800 youth in OYC institutions compared to the present (1980) figure of 1,600. The corresponding increase in the number of youth in community-based residential and nonresidential programs has resulted. Group homes, foster homes, and other potential residential providers had an average daily population of approximately 400 youth in 1971. The current (1980) population is 970. There were no contracts for non-residential programs for fiscal year 1980. The current contractual services budget for the OYC is just under \$12 million.

The OYC purchases services in the areas of education, employment, job preparation, day treatment, mental health, outreach and a variety of out-of-home placements. The OYC contracts with more than 100 agencies, approximately 90 percent of which are nonprofit and the balance city or county operated.

Although the OYC purchase of service system is far from perfect, the sharing of our perceived strengths and weaknesses should be useful to the reader. We believe we understand (as opposed to having achieved!) the elements of a successful system. These elements will now be briefly described.

An Efficient Fiscal System.—It was noted earlier that a major failing of Massachusetts, the one state that has deinstitutionalized to a larger degree than others, was its severe fiscal problems causing many service providers to go out of existence. In Ohio we

¹³ *Ibid.*, p.65.

¹⁴ See Waller, John D., et al., *Monitoring for Government Agencies*, Urban Institute, February 1976, p.17.

¹⁵ "Focus of National Attention: Juvenile Corrections in Massachusetts," *Corrections Magazine*, November-December, 1975, p.39.

¹⁶ Rutherford, Andrew, "The Dissolution of Training Schools in Massachusetts," *Academy for Contemporary Problems*, 1974, p.17.

¹⁷ *Op. cit.*, p.24.

¹⁸ Matalon, Rachel, "A Survey Report of Purchase Personal Services Utilization and a Review of the Purchase Personal Service Literature," unpublished manuscript, Ohio Youth Commission, 1979, pp. 29 and 30.

have experienced some problems in the fiscal area but not to the extent of those in Massachusetts. We have observed that when the fiscal system ceases to pay service providers on a timely basis providers, naturally enough, concentrate on the issue of late payments rather than on serving youth. The one system in Ohio that is now an on-line Cathode-ray Tube process, although not free of errors, does provide for timely payments to direct service providers. On the other hand the Ohio Youth Commission has manually processed invoices in a number of other program areas which has led to a number of late pay checks and animosities between the Youth Commission and service providers. Plans for computerization of the entire OYC purchase of service system will soon be implemented.

Public Support for Community-Based Corrections.—Again the experience of Ohio closely follows the experience of other states in that community-based corrections has not been welcomed with open arms by those most affected—neighbors of these programs. Letters to the Governor, state legislators, and the OYC Director; allegations of illegal and mischievous behavior on the part of youth in community-based programs; heated battles before zoning boards; newspaper “exposes”; and even the burning of a church which sponsors a group home!—these have been some of the responses of Ohio citizens to community-based corrections.

To cope with these anticipated problems the Youth Commission has made a concerted effort to tell the facts of community-based corrections through a Federal project (Community Support Project) and through trying to meet the real and imagined concerns of those who are protesting the existence of the community-based programs. The Community Support Project, an LEAA funded project, has published some excellent promotional information on corrections in the community and what the OYC is trying to do. These publications attempt to assuage the fears and prejudices of the general public through slide-tape shows and publications. Although the quality of this information is high, the impact of the Community Support Project in increasing the support of the public for community based corrections has not been established.

Trained Direct Service Staff.—Staff from the Community Services and the OYC's Staff Development Unit have worked in conjunction with providers of service to plan and implement systematic training of those staff who are providing direct service to youth in community-based programs. These training sessions have been of high quality and have definitely improved the skill level and some of the

formal training that is lacking in the staff of agencies which provide direct service.

Technical Assistance.—The Youth Commission has placed great emphasis on monitoring as demonstrated by the presence of “specialists” staff on the regional level. There are specialists in the areas of volunteers, employment, education, neighborhood youth workers (outreach workers) and community residential services (3) in each of the Youth Commission's seven regional offices. These specialists, usually former “Youth Counselors” (parole officers), are experienced practitioners and can provide technical assistance as well as ensure contract compliance. Specialists monitor each program under contract on a monthly basis; reviewing the activities, deficiencies and plans for resolving deficiencies if any exist. (Deficiencies are those areas in the program which fall short of standards, discussed below, and the program statement which each agency is required to submit as part of the contracting process.) Deficiencies or violations in standards are dealt with through meetings between staff and the service provider and the OYC at the regional level. If the deficiencies persist or there is a serious violation of standards the OYC will issue a letter notifying the provider that unless the decision is appealed through a fair hearing process, the contract between the OYC and the provider will be terminated.

Standards for Providers.—Community Services staff has worked with the OYC Legal Affairs Office, the Office of Business Administration and, again, provider groups in developing standards for the various types of programs. Because standards must be perceived by providers as legitimate and as tools to provide quality services the standards cannot be unrealistic or overly bureaucratic. When standards are accepted by providers they will not strenuously object to close monitoring based upon the standards. Moreover, accepted standards evenly enforced throughout the state will lead to a consistent relationship between the OYC and service providers and, ultimately, to better services to youth.

Research.—The Youth Commission Community Services staff has worked closely with the Office of Research to develop a longitudinal research study of the effectiveness of its community-based programs compared with its institutional programs. First returns of this research indicate that the findings in Ohio will corroborate findings of other research studies in the field of community-based corrections. That is, community-based programs are at least as effective as institutional programs, while being considerably less expensive.

Diversity in Providers.—The Youth Commission has not had the problem experienced in other states of having only a few agencies dominate the field of providers of services. The Youth Commission contracts with approximately 100 different agencies so that no one agency can dictate the relationship between itself and the Youth Commission. This leads to all agencies being treated equally, or at least not grossly different by the Youth Commission and eliminates jealousies and rivalries among the service providers as well as grievances against the Youth Commission.

Commitment to a Purchase of Service System.—Last but not least among the elements of the OYC system is a genuine commitment in understanding of the purchase of service system. The OYC recognizes that there are some global needs which are shared by itself and direct service agencies—a need for cooperation, joint planning, open communication, and improving the perception that the public has of community-based corrections. We also recognize that there are some inherent vested interests which the OYC has that are challenged by vested interests of the service providers:

PURCHASER OF SERVICE

- (1) To see that all youth, including youth with the most severe acting out behavior, the most emotionally disturbed, or the most mentally retarded, receive needed services.

PROVIDER OF SERVICE

- (1) To work with youth who have the greatest chance to succeed or at least youth who will not bring the agency adverse community reaction because of the youth's past behavior.

Whether "skimming"—screening out the most difficult youth—can be avoided rests upon two factors: (1) *the contractual relationship between the two parties* (If the purchaser pays a fixed amount regardless of the number of youth served, pressure to serve the most difficult youth is reduced. If the purchaser pays only for the number of youth served there is a greater possibility that these youth will be served.) and (2) *the availability of providers throughout the state who are willing to work with difficult youth* (Some providers take pride in the fact that they are willing and able to work with "unreachable" youth who fall outside of the intake criteria of other agencies).

- (2) To obtain services to youth with the least possible delay. (Purchaser)

- (2) To deliberate before making a decision in order to maintain autonomy, screen out difficult youth and involve staff in an important decision. (Provider)

Factors that influence the speed with which the referral is accepted include all of those listed for accepting difficult youth plus, in most instances, the educational level of the staff of the private agency. That is, our experience indicates that speed of intake varies inversely with the educational level of staff members of private agencies. Fortunately, a few agencies, with which the OYC contracts, are exceptions to this observation.

- (3) To monitor to assure quality services are delivered. This need can be met by on-site visits, by demanding reports on each youth who is being served as well as reports on the program in general, and by use of peer pressure from other service providers. Providers and associations put pressure on an agency when the quality of service declines. (Purchaser)

- (3) To meet the demands of the public agencies as well as their boards of directors or advisors. Providers seek to establish their legitimacy so that the monitoring will not interfere with their primary objective of delivery of services to youth they serve. Agencies frequently complain about bureaucratic red tape and undue interference into the operation of their agency in the name of public agency monitoring. (Provider)

These conflicting needs partially explain the complaints that OYC staff has against residential providers as well as complaints against the OYC.

Complaints about the OYC include:

- (1) Lack of consistency among OYC staff. Often expectations of OYC staff within a single office or within the OYC network of seven regional offices differ in their relationship to service providers. When providers around the state are organized and talk to each other, statewide consistency is needed.
- (2) Lack of sensibility to attitudes and pressures of the community.

- (3) Lack of knowledge of OYC staff about what provider does and why.

Some OYC staff complaints against service providers include:

- (1) Lack of experience and competence of program staff.
- (2) Lack of cooperation.
- (3) Not following OYC procedure.
- (4) Slow and rigid intake.
- (5) Trying to be advocate for youth which sometimes conflicts with meeting OYC expectations.

These complaints, grievances and charges are not surprising. They are similar to complaints and grievances which supervisors have of their workers and vice versa. The resolution or at least the amelioration of the complaints and the problems that lie behind them must be addressed by both the purchaser of service (OYC) and the providers of service. However, the *initiative* for dealing with the problems is the responsibility of the purchaser of service (OYC). The OYC has a legal obligation to provide services and when it chooses to do that through a purchase of service arrangement the legal obligation still rests with the OYC to see that the service is provided. Certainly a lack of information on the part of both parties has led to many of the problems and complaints. Therefore, a general effort to educate staff of both the service provider and purchaser of service is absolutely necessary.

Because of the different roles that each party plays there will always be some conflict between the purchaser and provider of services. For example, if a provider wishes to play a strong advocacy role for youth that they serve, they may well come into conflict with the purchaser of service. In such a situation both parties need to understand the other's position and realize that harmony is not always required for a relationship to be functional.

Arms Length Governance.—In its dealings with service providers, OYC attempts to assume the stance which one author describes as "arms length governance."¹⁹ That is, the purchaser of service must regulate and oversee the general activities of the provider of services because of the legal responsibility to see that quality service is delivered. Accountability must not be compromised.

¹⁹ Young, Dennis R. and Finch, Stephen J., *Foster Care and Nonprofit Agencies*, Lexington Books, 1979, p.233. These authors state earlier in their book, "Increasingly the future of nonprofits as a vehicle of service delivery seems to depend on the ability of government to become a competent and sensitive overseer of nonprofit sector activities," p. 19. On the same point, Kaszubaum, et al., state, "To impose governmental requirements beyond a reasonable degree upon private organizations is to defeat the very purpose of contracting out for certain services. Clearly extensive contracting requires both accountability and the retaining of the free market mechanisms." *op. cit.*, p.31.

However, the purchaser of service must learn to accomplish this task without interfering with management prerogatives. That is, the purchaser must seek to preserve the present strengths of service providers, must see value in the diversity and innovations which come from different perspectives and different role definitions than those held by the OYC. The purchaser of service must be willing to pay the price. Innovative, nontraditional, creative programs are usually ones that hire young and inexperienced staff, who often disdain what they perceive as bureaucratic or "law and order" attitudes of the correctional agency. The two appear to go hand in hand. If a public corrections agency is unwilling to struggle with nontraditional programs, it will limit the range and the competence of resources open to youth under its care.

Service providers who are independent and autonomous, who have their own base of influence and who draw on community support are in a better position to deliver quality services to youth than agencies which are totally dependent on the OYC. Just as the good supervisor does not want his worker to merely be a "yes man" without being creative and innovative, and without adapting his own style of performing his job, the purchaser of service must assume a stance with the provider of service in which conflict and different perspectives are not seen in a negative light.

Summary and Future Directions

Both the strengths and weaknesses of the purchase of services system which are discussed in the literature are found in the OYC community-based program. The OYC has been able to reduce its institutional population and increase its community-based programming because of the rapid and diverse expansion of programs by private service providers. The elements of a successful purchase of service system have been discussed along with the problems that Ohio has had with providers "skimming" and the conflicting needs and perceptions of the providers of service and the purchaser of service.

Some of the areas that will be addressed in the future:

- (1) improving the monitoring functions of OYC staff to ensure accountability. There is often a conflict between the technical assistance function of the OYC and its monitoring function. The two can be in conflict when a situation arises in which the OYC finds itself with a major interest in the continuance of an agency because of the funds and technical assistance that the OYC has provided to the project. Concomitantly the OYC may be dependent of the agency to serve a large

number of youth in such situations. There is pressure on the monitoring staff to be less than diligent in enforcing established standards. One possible solution to this problem is to have individuals with no responsibilities for the program to monitor the program. In some states there are special evaluators in monitoring units who perform this function. We believe, however, that such detached units are often not in touch with the realities of program needs and needs of youth. Therefore, the OYC has experimented with keeping the monitoring function within the program

services staff but switching responsibilities. That is, an education specialist along with a community residential services specialist will monitor a group home and then an alternative school program. We have found this idea to be promising.

- (2) Computerization of the fiscal process to more efficiently pay providers for services rendered.
- (3) An improved fiscal system which will provide fiscal accountability for the use of public funds.
- (4) Increase joint planning between the OYC and service providers to deal with present problems and future expansion needs.

His Day in Court

BY FREDERICK GREENWALD, Ph.D.*

ALTHOUGH the alien offender is given all the rights and privileges of the citizen offender with respect to arrest, trial, and opportunities for defense, and is provided with the services of an interpreter to insure his understanding of the proceedings and the opportunity to present his thoughts, more frequently than not he is denied that which to him may be the most critical phase of the procedure if he is found guilty: the presentence investigation report. Where such a report is provided, it will very often be a perfunctory effort consisting of a record check, a review of the details of the offense, the defendant's statement, and the information he provides about himself. This is necessarily self-limiting because the official records rarely if ever provide verified social history, particularly where it is not essential to the successful prosecution of the case. Still, the presentence report is acknowledged to be the single most valuable item available to the court in making its decision regarding sentence to be imposed. Should imprisonment be the ultimate decision it is vital to the institutional authorities in planning the program during confinement and to the probation officer during the period of supervision either on probation or parole should deportation proceedings be delayed or avoided.

A survey made during the summer of 1979 by the Alliance of Non-Governmental Organizations' Crime Prevention and Criminal Justice Branch found more than 2,000 alien offenders serving

sentences in Federal and state correctional institutions in the United States. How many aliens are confined in prisons throughout the world? To be nationalistic, how many Americans are imprisoned in other nations? How many aliens now serving time might have been granted probation had the court been in possession of well-prepared, fully documented presentence reports? The numbers involved are not limited to those currently incarcerated. How many sentences were suspended and the defendants ordered or permitted to leave the country without supervision because of favorable impressions and the eloquence of the defense attorneys? Many of these defendants, rather than being granted probation equivalent to "sunset parole," should have been incarcerated for the protection of society.

Why Should We Be Concerned? Let's Just Get Rid of the Problem!—There are a number of reasons for concern. The United States justifiably prides itself on its system of justice. The rights of the defendant are carefully preserved throughout the judicial procedure. The alien should not be deprived of the privilege of equal opportunity for full consideration of his background prior to sentencing, nor should the court be hampered in its efforts by the fact that information is not available to it. The information in many cases can be made available.

Caseloads are high enough—we don't need any more. The numbers involved might add to the caseload in small measure, but the percentages would be minute. The numbers are bound to increase. True, but considering the fact that aliens would be transferred out as well as in (American citizens convicted in courts of other nations return-

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ed under the same type of "courtesy supervision") the increase would not be great.

Do we get rid of the problem by "shipping them out"? Let us look at the question. _____ was arrested on charges of armed robbery. When it was found he was a citizen of another country it was agreed that upon his promise to leave and not return to this country he would be deported, but not prosecuted. This was done. Six months later he was back and arrested on a new charge of armed robbery. This time to insure that he would not return if permitted deportation rather than prosecution he was required to sign a written agreement to this effect. A short time later he was again on his way home. Six months later he was back, arrested a third time on new charges of armed robbery. This time he was prosecuted. At no time during this procedure was a presentence investigation made, nor was there a pretrial investigation. Such investigations might have disclosed prior records, or other information mitigating against deportation without either incarceration or probation. Certainly, if referral and transfer had been made to the probation services of the receiving nation the authorities in the nation of jurisdiction would have been told he had failed to report and might have been on the alert for possible return. Possibly the probation services in the nation of residence might have been able to provide such services as were essential to meeting the offender's needs without return to criminal activity.

There are values to be achieved through the transfer of sanctions in addition to those mentioned above. Prison superintendents have spoken of the difficulties of integrating alien offenders into the population because of language and cultural differences as well as inadequate information about anything other than the offense.

Even where the language is understood, the primary educational source for the alien inmate will be other inmates. Is this a way to assure a more adequate adjustment to society in a strange country? Far better that the alien be returned to his own nation where the re-educational process can take place in a language and under circumstances to which he is accustomed. We are assuming, here, that the court wishes to exclude this individual from the country. This may not necessarily be the case.

The question of violations comes up inevitably. Consider the offender who has been granted probation with return to the nation of residence as a special condition and with courtesy supervision arranged with the receiving nation's probation office. What if he violates the conditions of probation through a new offense; a violation which if it took place in the nation of jurisdiction would have

resulted in a hearing for violation of probation? There is no treaty and, therefore, he cannot be returned to the court of jurisdiction. Let us consider this matter. When the deportation takes place (or if the defendant is merely excluded as a condition of probation) it is unlikely that the deporting or excluding nation wants him back under any circumstances. Should there be a new arrest and conviction, however, action should be taken. What I propose is that the new conviction result in a new sentencing before a judge of the new court of jurisdiction. The presentence report prepared for the original court on the earlier offense would be made available to the new judge as a part of the presentence report prepared for him. He would be made aware of the fact that the offender not only had a previous conviction in another country but had abused the privilege granted him by that court. This should be taken into consideration in the determination of the sentence to be imposed on the new offense; thus the violation procedure would take place without the need for returning the offender to the original court.

I've Got a Heavy Caseload. It Would Be a Waste of Time And Effort To Go to All This Trouble for a Single Case.—Such an argument goes against the philosophy of probation and parole despite the fact that the element of time is a truly practical problem. It is a problem, however, that can be resolved. The Foundation for the Development of International Probation and Parole Practice has the facilitation of such service as one of the main reasons for its existence. A request for service accompanied by the appropriate papers will start a process which will include: communication with the appropriate authorities in the nations from which essential information must be derived; the return of the response(s) from the nation's agency with recommendations for or against probation, community service, special conditions, etc.; and an agreement to offer courtesy supervision should such action be requested by the court. A network of such contacts is in the process of development. Where such an agency does not exist efforts will be made to either develop one or find an acceptable alternative service. Where this is impossible or where, because of legal technicalities such an investigation or supervision cannot be arranged the court will be notified.

To preserve the rights of the offender as well as to meet legal requirements of the various courts and to prevent the abuse of the process the following papers would be required to accompany a request for service:

(1) An order of the court certifying the date and place of conviction, and violation of the specific criminal act by title, statute and section numbers.

(2) An order of the court requesting a presentence report and authorizing the Foundation to act in its behalf for this purpose.

(3) A statement by the defendant and his attorney (both must sign) authorizing the release of confidential information and agreeing to the presentence investigation.

(4) An outline of basic information such as the data completed on Form 1 used by the U.S. Probation System.

(5) A copy of the indictment and the details of the offense.

As for the "single case" issue, I believe it is unnecessary to remind the readers of our concern for the rights of our citizens while in other countries. Can we offer less to the alien while he is here?

Why Should a Foundation Be Organized for This Purpose When We Can Do It Ourselves?—As a matter of efficiency. The time required to locate the essential resources, establish the lines of communication, determine the requirements of different nations for information or for the release of information makes it impractical for each office to do the work for the few cases involved. With one office specializing in such operations, willing and able to establish the essential lines of communication, and able to take the time to research resources without depriving other cases of essential attention, such presentence investigations and arrangements for courtesy supervision become practical. While it is true that universal cooperation does not exist at this time, the number of nations willing to participate is increasing. Part of the work of the Foundation is educational, providing information, lecturers, arranging conferences, etc., in order to broaden the understanding of the values of probation and of such investigations and transfers. The Foundation, however, does no lobbying nor does it seek to influence legislators. This is the responsibility of the local organizations.

Such a Process Is Costly in Time and Money. Is It Practical When These Are Considered?—The Foundation is a nonprofit corporation and services are provided at cost. In terms of values to be derived let us consider a number of factors:

(1) If the alien offender is to be taught to resolve his problems in a socially acceptable fashion, his problems must be recognized, motivations must be explored, and he may also need re-education regarding the customs and traditions of the nation of jurisdiction. The staff involved in treatment must be made aware of such differences as may exist and the confusion that the defendant may feel trying to

cope with the problems evolving from such situations.

(2) Imprisonment in the nation of jurisdiction may not offer the best milieu for treatment, particularly if there are distinct language and cultural differences. It makes little sense to commit a person to prison if this would not ordinarily be the sentence imposed if he were a citizen or long time resident; particularly, if the court has deportation or exclusion as a special condition of consecutively imposed probation in mind. Courtesy supervision by the agency of the receiving nation would be far more useful under the circumstances.

(3) The cost factor in moving an individual back to his own country under courtesy supervision compares more than favorably with either the social or economic costs of imprisonment, while the *selective* use of imprisonment offers a more favorable prognosis.

(4) The "grass roots" implications of such investigations and returns rather than imprisonment can have a positive impact on the families and friends concerned for the offender's welfare.

Reciprocity.—A vital element in international probation is reciprocity. Request for information and referral to sources of assistance to alien offenders have been received from several governments and more may be expected. Requests for assistance with investigations and transfers have been received, assigned, and depending upon the laws of the nation involved, completed in varying degrees, most to the satisfaction of the court. As the numbers increase there will be greater recognition of the effort and its values and cooperation will also increase. The need for a central organization or assigned officer in each nation to make assignments and followup on results becomes increasingly evident. In the future as criminal justice broadens its functions and international criminal court becomes a reality such national representatives or agencies may well become the nucleus of an international probation system.

Summary

Sentencing the alien offender is as vital a part of the judicial process as the sentencing of a citizen or long-time resident. It may have far-reaching effects both on the individual and the nations, not to mention the families involved. When economic and social costs and values are weighed, the balance favors providing equal rights to the alien offender and an equal opportunity to the court to have benefit of as full and complete knowledge of the offender as possible when considering the sentence to

be imposed. In addition, the alien offender can derive benefit from the sentence to be imposed and society can receive the additional protections and benefits of intelligent and knowledgeable sentencing and treatment processes.

The courts of the United States are not alone in needing such information. The assistance of the probation offices of the United States is not sufficient. The Foundation is working through the Ministries of Justice of the various nations to obtain reciprocal cooperation. The need and value of such services have been recognized by the courts and other officials of a number of nations and the number is expected to increase. A prison warden in Germany is agreeing to the value of such information mentioned that in his institution alone there were inmates from 15 different nations; most of them did not speak German and knew little of the laws or customs of Germany. Nevertheless they had to be integrated into the general population and provided with both re-educational services and protection from those who might try to take advantage of them. There are many alternatives to imprisonment; many community resources available and others to be developed. The courts must be made aware of them in order to plan appropriately for the individual whose sentence is under consideration. Regardless of the nations involved, regardless of the cultures and traditions to which the defendant has been acculturated or to which he has been newly exposed, the problem of criminality is the same throughout the world. The objectives of the correctional process, i.e., to prevent recurrence of criminal behavior

and to motivate the individual toward socially acceptable behavior are common in every nation.

The voluntary effort for a court in Massachusetts, later legislated into existence as an arm of the court, spread throughout the United States and to many other countries. Probation now has the opportunity, the responsibility for further expansion through international cooperation. Conversations with members of the judiciary, officials of ministries of justice, probation officers and prison wardens of some 30 nations representing every settled continent, from both sides of the "iron curtain," large, small, old, and newly developing, lead to the belief that the time has come when such a concept will find general acceptance once the initiative is taken. Now, when the numbers of offenders are relatively small, is the time to develop the procedures to meet such needs. The groundwork for such concerted efforts is being laid by both the International Probation Organization, and the Foundation for the Development of International Probation Practice. Other organizations are also actively engaged in the effort. Among them the Foundation for the Development of an International Criminal Court. The United Nations has taken the subject under consideration at the 6th U.N. Congress on Crime Prevention and Treatment of Offenders. A number of groups of nations are in the process of formulating treaties and conventions to facilitate the exchange of information and transfer of supervision, but such negotiations have just begun and may take years to complete.

TO UNDERSTAND the problem of crime in any but human terms is to hide from it.

—DAVID L. BAZELON

Patterns of Probation and Parole Organization

BY CHARLES L. JOHNSON, Ph.D., and BARRY D. SMITH*

SYSTEMIC and organizational issues in criminal justice have received considerable attention over the last decade.¹ As a result of this attention, what has been obvious to many criminal justice practitioners is now public knowledge. That is, the criminal justice system in the United States is a complex labyrinth characterized by a wide diversity of organizational structures. Not only do the organizational structures vary between police, courts, and corrections, but also within each component as well.² This diversity has led many people to argue that criminal justice is not really a system;³ however, regardless of one's viewpoint, it would be hard to argue that the interrelationships between components do not impact on services provided. Specifically, that organizational structures critically affect services.⁴

Our purpose is to examine the organizational structure of a subcomponent of corrections—probation/parole. The authors will delineate the plethora of existing organizational structures into a typology derived from recommendations by the 1973 National Advisory Commission on Standards and Goals (hereafter referred to as the Commission) and determine the extent of state compliance to the Commission's recommendations.

The diversity of organizational structure in probation and parole has long been recognized as contributing to the lack of coordination evident in corrections. The 1966 Manual of Correctional Standards, for example, discussed the diversity and complexity of probation/parole organizations. Some of the trends, according to the Manual, are state administered probation, parole functions moving from the judicial to executive branch, and parole boards of not less than three members, appointed by and responsible to the governor.⁵ These trends indicate a movement towards streamlining correctional programs with the goal of providing better services through unification.

An example of such an attempt is the organization of parole supervision in such a way that intercompo-

nent program coordination is enhanced. One argument is that parole supervision is a continuation of the rehabilitation process and that the highest degree of coordination can be achieved by placing parole supervision and the institutional program under the same administrator. On the other hand, many feel the authority that sets conditions and grants parole should have the staff to assure that conditions are met. "However this question is resolved, there is no doubt that efficiency demands the closest possible coordination between paroling authority and the department of corrections."⁶

Another example of an attempt at unification is in the area of parole authority. The dominant pattern is for paroling authorities to be autonomous from institutional staff; however, many states have attempted to devise organizational means for promoting closer coordination between the institutional staff and the paroling authority.⁷

Each of these attempts revolves around the desire to provide better services through an organizational structure which enhances coordination. This perspective is perhaps best portrayed by the following quote from the Commission:

Unification of all correctional programs will allow the coordination of essentially interdependent programs, more effective utilization of scarce human resources, and development of more effective, professionally operated programs across the spectrum of corrections.

The most recent comprehensive statement concerning organizational issues in corrections is the 1973 volume on *Corrections* by the Commission. While this volume addresses a variety of issues in corrections, the sections which have the most applicability to this study are chapter 10 (Probation), chapter 12 (Parole) and chapter 16 (The

¹ See, for example, Gary N. Hotten and Melvin E. Jones, *The System of Criminal Justice* (Boston: Little Brown and Company, 1978) also: National Advisory Commission on Criminal Justice Standards and Goals: *Criminal Justice System* (Wash: 1973).

² National Advisory Commission on Criminal Justice Standards and Goals: *Corrections* (Wash: 1973).

³ Neil C. Chamelin, Vernon Fox, and Paul Whisenand, *Introduction to Criminal Justice* (New Jersey: Prentice-Hall, Inc., 1975).

⁴ National Advisory Commission on Criminal Justice Standards and Goals: *Corrections* (Wash: 1973).

⁵ American Correctional Association, *Manual of Correctional Standards*, 3rd ed. (Wash: 1966).

⁶ Garrett Heyns, "Patterns of Correction," *Crime and Delinquency*, July 1967, p. 430.

⁷ President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections* (Wash: 1967).

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Statutory Framework of Corrections). The sources for the following review were derived from specific standards outlined in each of these chapters.

Probation

One of the central focuses of concern for this study is the organizational location of probation field services within the criminal justice system. Historically and statutorily, the granting of probation has been a function of judiciary, however, the administration of probation field services (supervision) has had, and continues to have, a variety of organizational locations. Perhaps the major issue with respect to organizational location develops when the judiciary has administrative responsibility for court and field services with the court staff having responsibility for both of these functions. The claim has been made that where this organizational structure occurs, the primary emphasis is placed more on services to the court than services to the probationer. The counter to this contention is that placement of probation field services in the judiciary provides the court with critical feedback necessary for appropriate case disposition and service provision. Those who contend such service should be located outside of the judicial function cite the lack of coordination with other human service agencies, normally located in the executive branch of state government, and the resultant duplication of services.

Parole

Parole continues to be the most viable method of supervising offender re-entry into the community.⁸ While there have been recent attacks on the fairness and utility of the parole function,⁹ all 50 states continue to have active parole supervision programs. For the purpose of this study, the primary issues revolve around the organizational structure and program placement of each component of the parole function. Specifically, how are the decisions to parole and provision of field services organizationally linked to each other vis-a-vis the executive branch

of government, and, are these functions locally or state administered?

Traditionally, the majority of the paroling authorities are organizationally linked to the governor of a state in one of three ways. The first instance is a direct link whereby the governor appoints and is directly responsible for the parole board with no intervening state agency. In the second instance the parole board is in a financial and/or administrative sense located in an executive branch agency, such as a corrections department or a more comprehensive umbrella human agency. In this format the parole board is still programatically responsible directly to the governor of the state. In the third instance, the parole board is organizationally located and administratively responsible to either the department of corrections or a larger umbrella agency, which also has responsibility for correctional institutional services.

A second major area which will be addressed is the organizational relationship between parole field services and either the paroling authority or department of corrections. There are three basic organizational structures currently operating in American parole systems. The first places parole field services directly under the auspices of the paroling authority, the second places field services within a department of corrections, and the third, which has limited use, places field services outside of both the paroling authority and department of corrections. The latter may be found within a larger umbrella human service agency or occasionally have first level departmental status in the executive branch.¹⁰ The most cogent argument cited for placing the field services function outside of the paroling authority is to insure the independence of the parole decision from such influences as staffing patterns and caseloads. On the other hand, there are those who feel that field services are an integral part of the paroling function, and for purposes of coordination should be administratively responsible to the paroling authority.¹¹

Investigative Procedure

The Commission has addressed each of these issues by promulgating standards which outline recommended administrative relationships. This section will transpose those standards relating specifically to the previously stated issues into the research questions to be addressed.

The following four questions reflect major recommended standards by the Commission. The portion of each standard generating the research question is also given for the purpose of clarity.

⁸ The National Manpower Survey of the Criminal Justice System (Vol. 6, Criminal Justice Manpower Planning) an LEAA funded project, projects the growth of full-time equivalent employees in probation and parole to increase by 50 percent from 1974 to 1985. While the growth rate is predicted to slow somewhat between 1980-1985, an overall increase is projected during this time period.

⁹ See, for example, David Fogel, *We Are the Living Proof* (Cincinnati: W.H. Anderson Company, 1975); also, Leonard Ariand, *Prisons: Houses of Darkness* (New York: The Free Press, 1975).

¹⁰ American Correctional Association, *Directory* (ACA, 1980).

¹¹ National Advisory Commission on Criminal Justice Standards and Goals: *Corrections* (Wash: 1973).

(1) *Are parole field services separate from the paroling authority?*—(Standard 16.4) "Each state should enact legislation by 1978 to unify all correctional facilities and programs. The board of parole may be administratively part of an overall statewide correctional services agency but it should be...separate from field services."

(2) *Are parole field services located in Departments or Divisions of Corrections?*—(Standard 12.5) "Each state should provide by 1978 for the consolidation of institutional and parole field services in departments or divisions of correctional services."

(3) *Are probation services organizationally located in the executive branch of state government?*—(Standard 10.1) "Each state with locally or judicially administered probation should take action...to place probation organizationally in the executive branch of state government."

(4) *Is the parole authority autonomous and independent in decisionmaking from the Department of Corrections?*—(Standard 12.1) "Each state...should by 1975 establish parole decisionmaking bodies...that are independent of correctional institutions. These boards may be administratively part of an overall statewide correctional services agency but they should be autonomous in their decisionmaking authority..."¹²

There are various sources of information which would allow the determination of the degree to which state probation and parole agencies meet the Commission recommendations. After reviewing the nature, comprehensiveness, and validity of available information the authors chose the 1980 American Correctional Association Directory.

The Directory, which the American Correctional Association has been publishing continuously since 1940, contains a state-by-state description of each correctional system. Information about the correctional system is further divided into sections on institutions, parole boards, parole services, and probation services. In addition, further information is provided on the organization of specific services so the reader can better understand the total organization and administrative structure of correctional services in any given state. The information provided in the Directory is comprehensive, but as is sometimes the case in any publication problems of interpretation arise.

¹² The Commission indicates that the organizational arrangement of placing the parole authority in a unified department of corrections but retaining independent powers is a model gaining prominence in the United States.

¹³ The reader should be cautioned that both administrative and/or legislative changes can quickly impact organizational structures, therefore the data used in this study, both the ACA Directory and followup agency contact, reflect the organization structure only at this point in time.

When a problem developed with interpretation, the state agency in question was contacted to provide clarification. Examples of interpretation problems include areas such as how to classify the different agency names and how to operationally define autonomous and independent. It was necessary, for example, to include agencies such as Department of Mental Health, Department of Rehabilitation and Social Services, Department of Public Safety, etc., under the general rubric of "Department of Corrections" when the umbrella agency either included or encompassed correctional functions.¹³

Further, the American Correctional Association Directory appears to be distinguishing agencies as independent only when they are not under an umbrella agency and report directly to the governor. For our purposes, autonomous and independent will be used interchangeably to connote departments that are not impacted by other agencies in their decisionmaking even though they may administratively be within a larger department.

Results

The following section will present the results of the analysis of data contained in the American Correctional Association Directory vis-a-vis the research questions. Each question will be presented followed by explanatory remarks for those states that have not met the Commission's standards.

Research Question 1: Are parole field services separate from parole boards?

(Table 1)

Forty-one states meet the standard reflected by this research question. The remaining nine states fall into the following administrative structures:

ALABAMA, GEORGIA, HAWAII, NEW HAMPSHIRE, SOUTH CAROLINA, TEXAS:

The majority of states not meeting this standard fall into a structure where the parole board is appointed by and is responsible to the governor of the state. Parole field services are administered by the parole board.

MASSACHUSETTS, MISSOURI:

In these two states the parole board is located in a state human services umbrella agency. In Massachusetts the parole board, which provides field supervision, is a part of, but not responsible to the Department of Corrections. In Missouri, the parole board, which also provides field services, is on the same organizational level as the Department

TABLE 1

**ARE PAROLE FIELD SERVICES SEPARATE
FROM PAROLE BOARDS?**

RESULTS BY STATES

YES	NO	STATES	YES	NO	STATES
	X	Alabama	X		Montana
X		Alaska	X		Nebraska
X		Arizona	X		Nevada
X		Arkansas		X	New Hampshire
X		California	X		New Jersey
X		Colorado	X		New Mexico
X		Connecticut	X		New York
X		Delaware	X		North Carolina
X		Florida	X		North Dakota
	X	Georgia	X		Ohio
	X	Hawaii	X		Oklahoma
X		Idaho	X		Oregon
X		Illinois		X	Pennsylvania
X		Indiana	X		Rhode Island
X		Iowa		X	South Carolina
X		Kansas	X		South Dakota
X		Kentucky	X		Tennessee
X		Louisiana		X	Texas
X		Maine	X		Utah
X		Maryland	X		Vermont
	X	Massachusetts	X		Virginia
X		Michigan	X		Washington
X		Minnesota	X		West Virginia
X		Mississippi	X		Wisconsin
	X	Missouri	X		Wyoming

of Corrections with both agencies reporting to an umbrella agency.

PENNSYLVANIA:

Parole field services for the State of Pennsylvania are provided by either the Board of Probation and Parole or by county probation departments dependent upon length of sentence. If the offender is sentenced to 2 years or more his supervisor is provided by the Board of Probation and Parole. If the sentence is less than 2 years, parole supervision is provided by county probation departments.

Research Question 2: *Are parole field services located in departments or divisions of corrections?* (Table 2)

Thirty-seven of the states currently meet this standard. The 13 states that do not meet the standard fall into the following five organizational structures:

ALABAMA, GEORGIA, HAWAII, NEW HAMPSHIRE, NEW YORK, SOUTH CAROLINA, TEXAS:

Each of these states has an organizational structure which places the parole field services under the direct administrative responsibility of the parole board or administrative office of the Parole Board, which in turn reports directly to the Governor.

MASSACHUSETTS:

Massachusetts has a parole board which is an independent agency located within, but not subject to, the State Department of Corrections. The parole field services are directly administered by the parole board.

MISSOURI:

Missouri has an organizational structure which places both the Department of Corrections and the parole board administratively under a human ser-

TABLE 2
ARE PAROLE FIELD SERVICES LOCATED IN
DEPARTMENTS OF CORRECTIONS?

RESULTS BY STATES

YES	NO	STATES	YES	NO	STATES
	X	Alabama	X		Montana
X		Alaska	X		Nebraska
X		Arizona		X	Nevada
X		Arkansas		X	New Hampshire
X		California	X		New Jersey
X		Colorado	X		New Mexico
X		Connecticut		X	New York
X		Delaware	X		North Carolina
X		Florida		X	North Dakota
	X	Georgia	X		Ohio
	X	Hawaii	X		Oklahoma
X		Idaho	X		Oregon
X		Illinois		X	Pennsylvania
X		Indiana	X		Rhode Island
X		Iowa		X	South Carolina
X		Kansas	X		South Dakota
X		Kentucky	X		Tennessee
X		Louisiana		X	Texas
X		Maine	X		Utah
X		Maryland	X		Vermont
	X	Massachusetts	X		Virginia
X		Michigan	X		Washington
X		Minnesota	X		West Virginia
X		Mississippi	X		Wisconsin
	X	Missouri		X	Wyoming

vices umbrella agency, which in turn reports to the governor of the state. The parole field services are administratively responsible to the board of parole.

NEVADA, NORTH DAKOTA:

These states have Departments of Parole (or probation and parole) which are at the same organizational level as the Department of Corrections but are only administratively linked in that they both report to the executive branch of government. Each state has an independent parole board which is not administratively linked to the parole department.

PENNSYLVANIA:

Pennsylvania is similar in organizational structure to the initial group of states discussed in that parole field services are administratively located under the parole board. The distinction, however, is

that for offenders sentenced to less than 2 years, parole field services are provided and administered at the county level.

Research Question 3: *Are probation services organizationally located in the executive branch of state government?* (Table 3)

Thirty-eight of the states currently meet this standard. The 12 remaining states fall into the following organizational structures:

ARIZONA, CALIFORNIA, ILLINOIS, MASSACHUSETTS, NEBRASKA, NEW JERSEY, TEXAS:

Each of the above states has an organizational structure which places probation services at the county level. Some are directly linked to the county or district courts and others are less directly linked, in an administrative sense, to the judicial function. In the State of New Jersey, a single probation

TABLE 3

**ARE PROBATION FIELD SERVICES LOCATED
IN THE EXECUTIVE BRANCH?**

RESULTS BY STATES

YES	NO	STATES	YES	NO	STATES
X		Alabama	X		Montana
X		Alaska		X	Nebraska
	X	Arizona	X		Nevada
X		Arkansas	X		New Hampshire
	X	California		X	New Jersey
	X	Colorado	X		New Mexico
X		Connecticut	X		New York
X		Delaware	X		North Carolina
X		Florida	X		North Dakota
X		Georgia	X		Ohio
	X	Hawaii	X		Oklahoma
X		Idaho	X		Oregon
	X	Illinois	X		Pennsylvania
X		Indiana	X		Rhode Island
X		Iowa	X		South Carolina
X		Kansas		X	South Dakota
X		Kentucky	X		Tennessee
X		Louisiana		X	Texas
X		Maine	X		Utah
X		Maryland	X		Vermont
	X	Massachusetts	X		Virginia
X		Michigan	X		Washington
	X	Minnesota	X		West Virginia
X		Mississippi	X		Wisconsin
X		Missouri	X		Wyoming

department is located in each county and administered at the county level. There are, however, direct coordinative links to the state judiciary and in this sense could be construed to fall into the next category.

COLORADO, HAWAII, SOUTH DAKOTA:

These states operate with a statewide judicial system. Colorado has 22 district offices falling administratively under the Office of the Chief Justice of the Supreme Court. In Hawaii, five circuit courts administer probation services, which are administratively under the state judiciary department. South Dakota provides adult probation services via eight circuit courts, administratively located in the court services department in the Supreme Court.

MINNESOTA, NEW HAMPSHIRE:

The above states have a combination of executive and judicial administration of probation services. In New Hampshire, the state department of Probation provides the majority of probation services; however, probation services are also provided by some district courts. Minnesota has three different locations for probation services. In counties of less than 200,000, adult probation is administered by the Commission of Corrections and in counties of more than 200,000 by the district court. Counties participating in the Community Corrections Act provide probation services in those jurisdictions.

Research Question 4: Is parole authority autonomous and independent in decisionmaking from the Department of Corrections? (Table 4)

All states currently meet this standard. There are

TABLE 4

IS THE PAROLING AUTHORITY AUTONOMOUS AND
INDEPENDENT IN DECISION MAKING FROM
THE DEPARTMENT OF CORRECTIONS?

RESULTS BY STATES

YES	NO	STATES	YES	NO	STATES
X		Alabama	X		Montana
X		Alaska	X		Nebraska
X		Arizona	X		Nevada
X		Arkansas	X		New Hampshire
X		California	X		New Jersey
X		Colorado	X		New Mexico
X		Connecticut	X		New York
X		Delaware	X		North Carolina
X		Florida	X		North Dakota
X		Georgia	X		Ohio
X		Hawaii	X		Oklahoma
X		Idaho	X		Oregon
X		Illinois	X		Pennsylvania
X		Indiana	X		Rhode Island
X		Iowa	X		South Carolina
X		Kansas	X		South Dakota
X		Kentucky	X		Tennessee
X		Louisiana	X		Texas
X		Maine	X		Utah
X		Maryland	X		Vermont
X		Massachusetts	X		Virginia
X		Michigan	X		Washington
X		Minnesota	X		West Virginia
X		Mississippi	X		Wisconsin
X		Missouri	X		Wyoming

a variety of organizational structures, some of which are more clearly independent organizationally from the institutional corrections functions than are others. For this reason all 50 states will be presented in the following organizational typology.

ALABAMA, ALASKA, ARIZONA, ARKANSAS, COLORADO, CONNECTICUT, DELAWARE, GEORGIA, HAWAII, ILLINOIS, IOWA, KANSAS, KENTUCKY, LOUISIANA, MAINE, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH DAKOTA, OREGON, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, TENNESSEE, TEXAS, VERMONT, VIRGINIA, WEST VIRGINIA, WASHINGTON, WYOMING:

The organizational structure of the above states is the most prevalent and clearly delineated from cor-

rections. In these states the parole function is responsible directly to the governor of the state. In most cases the governor appoints the members of the parole board and in some cases this is confirmed by the state senate. In none of these states is there any organizational relationship to institutional programming except that parole and correctional administrators are ultimately responsible to the governor of the state.

CALIFORNIA, IDAHO, INDIANA, MARYLAND, MASSACHUSETTS, MISSOURI, OHIO, UTAH, WISCONSIN:

In each of the above states, the common factor is that the parole board is responsible to or appointed by an umbrella agency which has ultimate administrative responsibility for two or more correc-

tional or other human service agencies, consequently the umbrella agency always includes the institutional correctional function and the paroling function. In the sense that both agencies report to the umbrella agency or a lower level division, they are administratively linked. In California, the governor appoints the paroling authority members but they, as well as the correctional function, are located under the administrative purview of an umbrella agency. In Massachusetts the parole board is located administratively in the Department of Corrections but is responsible to the secretary of the umbrella agency. In Idaho, Utah and Indiana, the paroling authority reports ultimately to the governor but through a corrections board which also has responsibility for institutional corrections.

FLORIDA, MINNESOTA, NORTH CAROLINA:

In these states, the parole board is autonomous and responsible only to the governor of the state, even though there is some administrative or organizational link to the department of Corrections. In Florida, the Secretary of the Department of Corrections serves as a voting member for policy matters only and in Minnesota the Chairman of the Parole Board is appointed by the Commissioner of Corrections. In North Carolina, the Paroling Authority is funded by the Department of Corrections but they are only responsible to the Governor.

MISSISSIPPI, MONTANA, SOUTH DAKOTA:

These states have an organizational structure which places the paroling function administratively in the Department of Corrections, although they are appointed by and responsible to the governor of the state.

OKLAHOMA:

In the State of Oklahoma, there is no administrative or organizational relationship between the paroling function and the Department of Corrections. The parole board members, of which there are five, are appointed by the Governor (3), the State Supreme Court (1) and the Court of Criminal Appeals (1).

MICHIGAN:

In Michigan there is a direct administrative link between the Department of Corrections and the

Parole Board; however, the Parole Board indicates that in making parole decisions it is autonomous and independent. The Parole Board members are civil servants and are responsible to the Department of Corrections.

Discussion

Organizational Location of Parole Field Services

The first and second research questions address the organizational location of parole field services in relationship to the paroling authority and institutional corrections (Standards 16.4 and 12.5). Forty-one of the 50 states (82 percent) meet the Commission standard which recommends that parole field services be separate from the paroling authority. The current and most prevailing view of the parole board function is to formulate parole policy and make decisions regarding the release of offenders from institutions.¹⁴ One step toward limiting the scope of parole board responsibilities is to remove from their administrative purview those staff associated with parole supervision. Not only will this free the parole board from associated administrative duties, but it will also enhance the quality of service provided by the parole supervising staff. This assertion is made based in part on movement in corrections toward the concept of offender reintegration.¹⁵

The past decade has seen the credibility of rehabilitation, in corrections generally and in the institution specifically, erode to the point that the cry was often heard, "Rehabilitation is dead."¹⁶ Concurrent with, and partly as a result of this erosion, the model of reintegration was introduced. Based on the premise that psychological and attitudinal changes could not take place behind prison walls, the emphasis began to be placed on helping the offender adjust via community correctional concepts such as the halfway house, work release and, furlough programs.

Organizationally the concept of reintegration can be more readily achieved when parole field staff are administratively linked to the institutional corrections function. "The growing complexity and interdependence of correctional programs requires more than ever that parole field staff be integrated more closely with institutional staff."¹⁷ This statement by the Commission implies that parole field staff should become more involved and concerned with activities that occur in the institution or prerelease center. To a large extent their efforts will need to be an uninterrupted extension of staff efforts within the institution.

¹⁴ National Advisory Commission on Criminal Justice Standards and Goals: Corrections (Wash: 1973).

¹⁵ Robert M. Carter and Leslie T. Wilkins, *Probation, Parole, and Community Corrections* (New York: John Wiley and Sons, Inc., 1976).

¹⁶ Robert Martinson, "What Works?—Questions and Answers About Prison Reform," *The Public Interest*, No. 33, Spring 1974.

¹⁷ National Advisory Commission on Criminal Justice Standards and Goals: Corrections (Wash: 1973).

The results from the second research question show strong support for the Commission's recommendation that institutional and parole field services be consolidated in departments or divisions of corrections. Thirty-seven (74 percent) of the 50 states are in compliance with the standard. Of the remaining 13 states, nine follow the pattern of placing field services under the parole board, one state provides county administered parole field services for some offenders, and the remaining three states place parole field services separate from both the department of corrections and the parole board. While the latter three states do not meet the recommended standard for placing parole field services within a department of corrections, their structure does move toward enabling closer coordination between field services and institutional corrections.

Organizational Location of Probation Services

Standard 10.1 (research question 3) examines whether probation is located in the executive or judicial branch of government. Thirty-eight (76 percent) of the 50 states are in compliance with Standard 10.1. Of the 12 remaining states, seven have county level probation, three have a state judicial system, and two have a combination of executive or judicial administration. The issue of executive or judicial administration has been a constant source of debate.¹⁸ Those favoring placement of probation in the judicial branch argue that courts would benefit from the feedback on effectiveness of disposition, have a greater awareness of resources needed, and, that probation would be more responsive to the courts. On the other hand, those favoring placement in the executive branch argue that judges are not equipped to administer probation, services to probationers would receive lower priority than services to courts, courts are adjudicatory and not service oriented, and all other correctional subsystems are located in the executive branch.

As early as 1966 The Manual of Correctional Standards recognized a clear trend towards executive administration of probation.¹⁹ The 1967 Task Force on Corrections also recommended and recognized a clear trend toward executive administration of probation.²⁰ In 1973, the Commission stressed that by placing probation in the executive branch "the potential for increased coordination in planning, bet-

ter utilization of manpower and improved services to offenders cannot be dismissed."²¹

Organizational Location of the Paroling Authority

The fourth research question (Standard 12.1) deals with the administrative linkage between the paroling authority and the department of corrections. The overriding argument for placing paroling authority in an administrative position independent of the correctional department is to insure that the decision to parole is based on both the needs of the offender and protection of society and not just the needs of the institution.²² There is the other contention that the parole board should be responsible for field services in order that the overall parole effort—from the decision to parole to parole supervision—can be better coordinated, thereby improving service delivery to the offender.

There is only one state which clearly does not meet the Commission's recommendation of insuring parole decision autonomy by administratively locating this function outside the direct administrative purview of the correctional department. The majority of states have an organizational structure in which the paroling authority is directly responsible to the Governor. Several states seem to meet a compromise position where the paroling authority and department of corrections report administratively to an umbrella agency or overseeing state board. This structure would, on the surface, appear to meet the criticisms of those persons calling for closer coordination of not only the paroling authority and parole field services, but also the integration of all correctional services.

Summary

Bringing coordination and unification to any organization characterized by a wide diversity of functions and organizational structure is obviously a difficult task. In recommending standards for probation and parole the Commission recognized this task and proposed the four standards addressed in this article. Our analysis, although not indicating total unification, does show a very positive effort at better coordination of function and organizational structures. One can hope that with additional compliance the criminal justice system will indeed approach appropriate program unification resulting in timely provision of quality services which meet the needs of the offender and the community.

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¹⁸ See for example: *ACA Manual of Correctional Standards*, President's Commission, Task Force Report: Corrections, National Advisory Commission: Corrections.

¹⁹ American Correctional Association, *Manual of Correctional Standards*, 3rd Edition, (Wash: 1966).

²⁰ President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections (Wash: 1967).

²¹ National Advisory Commission on Criminal Justice Standards and Goals: Corrections (Wash: 1973).

²² *Ibid.*

Understanding Alcoholism and the Alcoholic Offender

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ALCOHOLISM is a pervasive aspect of work with offenders and their families. It is often part of the complex set of variables which seem to precipitate criminal careers, and uncontrolled drinking is a ubiquitous feature of the disorganized and self-destructive life styles of chronic offenders. It is estimated that over half of the violent crimes committed occur under the influence of alcohol.¹ If a presentence or pretrial report contains information about a defendant's drinking problem, predications of future adjustment are likely to be more guarded because alcoholism itself has been seen as such a hopeless, untreatable condition. During the past decade, however, increased attention has been directed toward a broadened understanding of the scope and consequences of alcoholism in American society. Stimulated in part by the passage in 1971 of the Hughes Act (Public Law 91-616) investigators have been uncovering information about the nature, etiology, and successful treatment of alcoholism which is causing helping professionals to discard some of their assumptions concerning the nature of the problem and techniques of intervention. The intent of this article is to examine some of these assumptions in the light of new knowledge and to review the implications of an expanded understanding of alcoholism for criminal justice practice.

Dimensions of the Problem

Perhaps the most significant information emerging from current research concerns the pervasiveness of alcoholism in American life. Only cancer and heart disease kill more people in this country than alcoholism. More than half of the auto accidents, private plane and boating accidents are alcohol related. It has reached epidemic proportions among teenagers who run a much greater risk of becoming alcohol addicted than drug addicted, and it is a problem of increasing seriousness among women and the aged.² The research evidence

relating to "fetal alcoholism" is now conclusive that drinking during pregnancy does affect the fetus and can produce a range of intellectual, emotional and physical problems that will persist through the life of the unborn child. Only Down's Syndrome and spina bifida are responsible for more birth defects and associated mental retardation, and fetal alcoholism is the only one of the three that is preventable. It is estimated that anywhere from 5 to 10 percent of any given work force are problem drinkers at a cost to the American economy in excess of \$40 billion in lost time, accidents, and health insurance claims.³

Professionals as well as lay persons still have stereotypes about the alcoholic as an isolated, skid row bum or as belonging to a certain nationality, social-economic class or personality type. Few alcoholics end up on skid row, and most are members of intact families. We are just beginning to develop a picture of how much family violence in the form of abuse against children, spouses, and the elderly is associated with uncontrolled drinking. Even in apparently more benign families, children of alcoholic parents are more inclined to become alcoholic and to have a range of other social and emotional problems than are children of nonalcoholics.⁴ Alcoholism is not limited to one type or class of person in our society. There is hardly an offender, client, friend, relative or coworker that is not touched in some tragic way by this major national health problem, and our growing awareness of alcoholism as a "killer disease" lends urgency to any effort to disseminate information about its seriousness and far-reaching consequences.

Alcoholism as a Primary Disease

As long as it was believed that alcoholism was a problem for only certain types of individuals it was relatively easy to make assumptions about its causes and treatability. We could assume that only certain nationalities, classes, or neighborhoods were facing this problem. Professionals believed that alcoholism was merely a symptom of underlying psychopathology or problems in interpersonal relationships common among severe personality disorders, and for this reason not highly treatable.

¹ *Facts on Alcoholism*, National Council on Alcoholism, N.Y., 1972.

² Ernest P. Noble, Ed., *Third Special Report to the U.S. Congress on Alcohol and Health*, Washington, D.C., National Institute on Alcohol Abuse and Alcoholism, 1978.

³ *Ibid.*, p. 48.

⁴ Margaret R. Cork, *The Forgotten Children*. Toronto: Paperjacks, 1969.

These beliefs were perpetuated in part because so much of our data about treatment was based on work with individuals who fit stereotypes. The skid row missions and "drunk court" programs could not provide data on the corporation executive, the housewife or the isolated elderly retiree with a drinking problem, and theorizing about alcoholism was limited to experience from a highly nonrepresentative sample. Since mental health professionals believed that the drinking was just a symptom of an underlying state, the treatment of choice was to discover the underlying disturbance, correct it if possible and the "symptom" would disappear. The notable lack of success of this approach was attributed to the hopeless quality of the disease and the resistance of the patients to the help being offered.

It is now generally accepted among alcoholism counselors from a range of disciplines that alcoholism must be understood as a primary disease entity involving a broad range of social, emotional, and physical factors all of which need to be understood. The research evidence does not support the belief that any one pre-existing personality type is associated with alcoholism. "For treatment purposes, in the current state of the art, alcoholism is best seen as a primary, progressive, chronic, and if ignored, an eventually fatal illness. Significant numbers of recoveries through Alcoholics Anonymous and the specialized treatment programs have demonstrated that the treatment of alcoholism in the early stages has been more successful than many other chronic conditions."⁵

In spite of the available evidence, professionals continue to have difficulty surrendering the belief that there is an "alcoholic personality" more prone to uncontrolled drinking than other personality types. As stated above the research evidence does not support this hypothesis, but what is emerging is a recognition that there is a similarity in the behavior of alcoholics which seems to be a result rather than the cause of the illness. As their day to day functioning becomes more problematic, as their memories start to fail, and as ego boundaries become more diffuse, alcoholics must find ways of compensating through the manipulation of significant others in their environment. The manipulative behavior, the faulty ego, the grandiose ideation, the denial and memory lapses are now understood as a behavior pattern produced by the physical and psychological effects of uncontrolled drinking and

not as a prior condition. The effects of alcoholism are often misdiagnosed by the well intentioned counselor as being symptoms of psychopathology rather than symptoms of a drinking problem with potentially fatal results.

It must be understood that this perspective on the behavior of the alcoholic does not mean that severe psychological and interpersonal problems are nonexistent. As with any other individual the alcoholic may, indeed, evidence pre-existing personality disturbances of a serious nature as well as highly disturbed interactions with others. In addition, the drinking will complicate any existing problems and create new difficulties for alcoholics, their families and friends which need attention. But the same can be said for the diabetic, the cancer patient, or the paraplegic. The point is not that alcoholism is "just like" these other diseases, but that as with cancer or diabetes the existence of personality and interpersonal disturbances of one kind or another should not be used as an excuse not to treat the primary disease. The danger in such an approach is that the primary disease worsens, physiological impairment and addiction increase, and the probability of recovery lessens during the pursuit of underlying pathology. It is unlikely that the psychological problems will be accessible to treatment anyway as long as the drinking behavior continues.

A still more subtle danger for the client is that the well meaning counselor or probation officer who persists in trying to find some other cause or excuse for the alcoholic's behavior is, in fact, contributing to its continuance. One of the most difficult aspects of working with alcoholics is their rigid denial of either the presence or seriousness of the disease, and they will eagerly endorse any explanation that the drinking is not the "real" problem; the real issue is a disturbed relationship with the mother, a controlling wife, or unusual life stresses. If we instead accept the interpretation that alcoholism is an identifiable disease entity in its own right with specific symptoms and a predictable course then we increase the probability of its detection at earlier stages when it is most treatable and reduce the risk of misdiagnosis that can lead to death.

One final feature to keep in mind is that the broadened experience with alcoholism indicates that it is a highly treatable disease. A persistent misconception is that it is resistant to any form of intervention, which is probably true of the late stage skid row alcoholics use as examples. This pessimistic view is also consistent with psychoanalytic theory which associates alcoholism with developmental disturbances occurring during

⁵ National Association of Social Workers, "Policy Statement on Alcoholism and Alcohol-Related Problems," *NASW News*, January 1980, p. 20.

the oral phase of infancy, suggesting that such early trauma could not easily be reversed in adult life. Empirical evidence with alcoholics from every class and condition, people who have more internal and external resources, has demonstrated the ability of alcoholics and their families to recover from some of the most debilitating effects of the disease. The occupational alcoholism movement and the increasing numbers of Employee Assistance Programs in corporations, unions and other work sites have helped to illustrate the amazing results of early intervention with alcoholics whose job performance has begun to suffer and the effectiveness of treatment when the threat of job loss becomes a motivating factor for recovery.

Alcoholism as a Family Disease

Just as alcoholism is not a disease of a particular class or type of person, so too it is not a disease which is most common to isolated individuals. Alcoholism is a family disease that crosses generational boundaries and influences extended kin networks. Because of the progressive nature of the illness and the erosive effects on the biopsychosocial functioning of the individual alcoholic, the alcoholic must continually find ways to disguise the drinking behavior and to compensate for his or her increasing inability to carry out normal day to day responsibility. The alcoholic becomes adept at manipulating others to fulfill these functions for him and to project responsibility, guilt, shame, on to others for repeated failures in his own performance. Because of the stigma attached to alcoholism, family members cooperate by making excuses to themselves and others for the disruptive behavior. As they take on more responsibilities for the alcoholic family member, their own ego boundaries become diffuse and their perception of reality may become as distorted as the alcoholics'.⁶

In addition to the complicated interpersonal psychodynamics that occur within the family, the family must deal with many other attendant problems brought about by economic stresses, physical illness, and the emotional isolation which ensues. Understanding the concept of alcoholism as a family disease is not simply a way of saying that family members must be treated in order to help the alcoholic obtain and maintain his or her sobriety. It refers to the fact that other family members have serious psychological and interpersonal problems of their own which are created or aggravated by virtue

of being in an alcoholic family. They share some of the same symptomatology as the alcoholic and because of the stresses within the family group, they are more vulnerable to the normal life stresses that all families and individuals face. A study of children of alcoholics indicated that their children tended to be socially isolated from their peers because of their deeply rooted shame of the parent's drinking behavior and the continual disruption of family life that occurred. They were reluctant to associate with other children because of the embarrassment of having an abnormal parent and family life, and because of the emotional hurt they experienced in comparing their own family lives to the happier lives of their associates. In addition, they felt emotionally isolated within the family. The alcoholic and nonalcoholic parent were so caught up in pathological interaction because of the drinking behavior, they were emotionally inaccessible to their children, and this fact of family life was more distressing to the children than the actual drinking behavior. Significantly the children were more critical of the nondrinking parent for not meeting their needs and tended to excuse the alcoholic parent on the grounds that the drinking caused them to not have control over their behavior. The nondrinking parent was seen as having control and therefore more at fault. Tragically, their psychological scars remain even when the alcoholic parent achieves sobriety without additional treatment directed toward resolving the problems of the children.⁷

Family members experience the effects of stigmatization, and wives in particular often encounter a deeply ingrained cultural attitude that the wife is at fault, one aspect of the general antifeminist attitudes which imply that women are to blame for most of men's moral lapses. As she is manipulated into assuming more and more responsibility for the family's well being and for covering for the alcoholic's failures in performance, the wife also becomes more vulnerable to criticism as being domineering. The need to control becomes more manifest in reaction to the increasing chaos and unpredictability of the life of an alcoholic family. Just as there is no evidence to support the contention that no one personality type is more subject to becoming alcoholic, there is no evidence to support a claim that only certain types of women marry alcoholics, but the special stresses of the illness produce similar responses. Other relatives, close friends, and even coworkers and employers can become caught up in comparable destructive alliances with the alcoholic in an unending cycle of

⁶ Christine Huff Powell and LeClair Bissell, "The Alcoholic Denial Syndrome: An Alcohol-Focused Approach," *Social Casework*, January 1978, p. 12.

⁷ Cork, *ibid.*

shame, guilt and rescue attempts which deplete internal and external resources to the extent that the pursuit of one's own goals becomes impossible.

Most probation officers are already familiar with the invaluable support services provided by Al-Anon and Al-Ateen in helping family members of alcoholics extricate themselves from feeling responsible for creating the drinking problem or curing it. The significance of these organizations to probation work goes beyond that of a referral resource, however, and along with Alcoholics Anonymous they can be a tremendous source of information for probation officers in understanding the complex interactional realities involved in alcoholic families and in providing insight as to how they can be helped.

The Role of the Probation Officer

As with many other illnesses the prognosis for recovery from alcoholism is much stronger when the illness is identified as early as possible. One of the most encouraging results of current national emphasis on understanding and treating alcoholism is the constant reaffirmation of this fact, and the very positive results of timely intervention. Probation officers like social workers and many other helping professions deal with a wide range of individuals and families and are in a position to identify alcoholic offenders and families early in the course of the disease. Whether or not the alcoholism is related to the law violative behavior, knowledge of the symptomology and progress of alcoholism provides the probation officer with the tools to institute remedial or preventive measures as early as possible. As part of the brokerage function the probation officer should be well acquainted with the alcoholism treatment resources in the community that use enlightened approaches to alcoholism treatment. More important, the probation officer should maintain up to date information concerning the availability of resources in order to be able to move quickly, to make a referral when the opportunity presents itself and the case situation seems to warrant such action. Trained alcoholism counselors in community-based treatment centers can conduct knowledgeable diagnostic studies to make the final determination as to whether or not the client is indeed experiencing a problem of alcoholism, and if the disease has progressed to the extent that the treatment of choice is inpatient hospitalization. Every probation officer does not have to be an expert in alcoholism treatment, but he or she should be familiar enough with the nature of the disease to make intelligent referrals.

The probation officer can be of help in providing information about the nature of alcoholism to clients when a drinking problem is at issue. Few people are well informed in this area and any knowledgeable voice becomes an important part of the national strategy to reduce the costs monetarily and in human suffering of this major health problem. This does, of course, mean becoming well informed. In addition to the mass of information now being produced by the National Institute of Alcohol and Alcohol Abuse, many state and local alcoholism authorities circulate informational material on how to recognize and treat problem drinking. Local Alcoholics Anonymous offices provide highly relevant information, much of it free of cost. An even more potent form of learning is to attend some of the open meetings of A.A. and Al-Anon for firsthand accounts of alcoholism and its effects. Local treatment centers offer public information lectures and often training programs of varying degrees of intensity for those wishing to develop their skills in this area.

The probation officer can also become part of an interdisciplinary and multifaceted treatment strategy in behalf of the alcoholic. A major treatment task in working with alcoholics is overcoming the rigid denial defense. Alcohol affects the central nervous system in a way that may produce blackouts or alters the memory processes, and alcoholics can easily convince themselves that their drinking is just moderate, that the disruptive behavior that occurs while drunk is actually exaggeration or invention. An alcoholic may easily discount his wife's assertion about his abusiveness while drinking, but if the same point is made by the counselor, the probation officer, the employer, the police officer called to break up the fight, then the denial defense is more difficult to sustain. One of the most dangerous myths about alcoholism treatment is that the person must "hit bottom" before there can be any real motivation for or involvement in treatment. It is not true, and what we know about life threatening nature of the disease indicates that we cannot afford to wait until the person "hits bottom." We can, however, refuse to cooperate in the denial behavior of the alcoholic and through the confrontation technique described above, create an artificial "bottom" which will often have the same effect of motivating the person to accept treatment.

Finally, probation officers by virtue of the long term nature of the contacts with offenders are in a position to provide ongoing support of the alcoholic's abstinence and/or involvement in treatment programs. Acknowledgement of their efforts,

monitoring of their participation in A.A. and treatment programs, and help in negotiating stress likely to produce a relapse can significantly increase the probability of long-term recovery. Persistence in the face of a relapse is also an important technique to cultivate. Relapses are understood and accepted in virtually every other form of illness, but barely tolerated by professionals working with alcoholic offenders partly because of the traditional attitude of pessimism which has permeated such efforts.

Perhaps the best antidote to this pessimism is to seek out and talk to the growing corps of alcoholism treatment counselors who are working with

alcoholics and their families in treatment centers, hospitals, family service agencies and occupational alcoholism programs. Listen to them describe the dramatic recoveries and the restoration of intact, functional families occurring daily as a direct result of early detection and appropriate intervention and the profound personal gratification this provides for them as professionals. The opportunities for such a return on our investment of time, skill, and commitment are not all that common in criminal justice practice. Here is one such opportunity we cannot afford to miss.

News of the Future

RESEARCH AND DEVELOPMENT IN CORRECTIONS

BY JOHN P. CONRAD

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JUST AS NATURE abhors a vacuum, criminal justice abhors uncertainty. When a crime has been committed, evidence is gathered to make known the unknown. Elaborate procedures for decisionmaking have come down to us over the centuries to enable the courts to make certain what was uncertain. The administration of criminal justice has evolved over those centuries to adapt to the increasing difficulty of assuring certainty. We insist that guilt must be determined beyond a reasonable doubt, and those procedures are intended to make that determination as certain as human institutions can achieve.

There has always been a general certainty about the results we want to get. All civilized societies share a conviction that murder, rape, and robbery are crimes, and the consensus is general that these crimes must be punished. We are so sure of our ground about the criminal quality of such actions that no one seriously questions whether sanctions should be imposed on murderers, rapists, and robbers. Anyone asking how we justify the punishment of such criminals will get a rude answer from the common man. In academic discourse, an interesting game can be played with the rationale for punishment, but it seldom draws the attention of legislators and judges.

Criminal justice in our times must resolve ambiguities that our distant forefathers never dreamt of. One of the most baffling is our response to the sale and use of narcotics. How does an American who professes his belief in personal freedom justify the interference of the state with the freedom of anyone to use chemicals to enhance his performance in an athletic contest or to find pleasure in a dull world? There is a long list of these chemicals. They offer fleeting escapes from frustration, tedium, and downright misery. Why should they be forbidden? Is it even practical to prevent their distribution and use? Those who remember the 18th amendment and the Volstead Act cannot suppress uneasiness about the consequences of our national ef-

fort to prohibit the sale and consumption of commodities that are so widely and avidly desired.

There are answers to these questions. Many of them emerge from the accumulated observations of clinicians alarmed about the condition of people who have been brought to them for emergency care after bad trips. Criminal justice functionaries have thought they perceived connections between the use of narcotics and the commission of crimes. We have always thought we knew that although the pleasures and benefits of drugs are real enough, though momentary, the long-term effects were disastrous. Psychiatrists and neurologists can and will report horrifying accounts of drug overdoses, of the irreversible vegetabilization of immature and gullible young people who have used chemicals too regularly for too long. All of us in criminal justice can summon to mind sad tales of offenders who became addicted to drugs they could not afford and therefore resorted to criminal careers.

In spite of these indicators of evil, doubts have spread about the wisdom of our national policy to criminalize the sale and to discourage the use of narcotics. Fifteen years ago, I heard the attorney general of one of our most populous states declaim that regardless of the scepticism of researchers, he could not revise his life-long position that the use of marijuana was an unmitigated evil. He had conveyed that view to the youth of his state, he continued to believe it, and nothing could induce him to recant. We are a long way from that intransigence about marijuana, but we are even more confused and uncertain as to what the law should be and how it should be enforced.

One of the reasons for the contemporary disarray is the lack of valid information about the use and effects of narcotics, and the durability of patent misinformation. As long ago as 1971, Max Singer, the president of the Hudson Institute, called attention to the absurd arithmetic by which calculations are made of the number of heroin addicts and the dollar value of their thefts.¹ At the time a generally accepted estimate was that in New York City there were at least 100,000 addicts, each of whom was presumed to steal an average of \$30 a day to support their

¹ Max Singer, "The Vitality of Mythical Numbers," *The Public Interest* (Number 23, Spring 1971), pp. 3-9.

ravenous habits. Simple multiplication ($100,000 \times \$30 \times 365$) = \$1,095,000,000 arrived at a sum of money that far exceeded not only the value of known thefts of all kinds but also any reasonable estimate of the thefts not reported to the police and the insurance companies. No study of the available data could justify a figure higher than \$250,000,000—an admittedly substantial sum—even with liberal speculations built into the assumptions. Nevertheless, the billion-dollar figure became common currency, and some writers multiplied it by two or three without being challenged.

In the 10 years that have elapsed since Singer's article appeared, we have not become much better informed, though scepticism has certainly increased. We don't know how many people are addicted to what, nor can we add in a figure for occasional users. We have no idea how many are using cocaine, marijuana, "speed," or any of the other chemicals that seem to be inextricable from the cultural fabric. Our ignorance is almost unrelieved as to the dimensions of our problem with narcotics, but we persist in making, enforcing, and increasing the severity of legislation as though everything about narcotics was well understood.

THE GARBAGE DRUG

These not exactly original reflections are prompted by a reading of a collection of four ethnographic studies of the use of phencyclidine-piperidine HCL, more conveniently known as PCP, more colloquially known as "angel dust." (There are 40 listed designations for the stuff; the jargon of the drug culture may well attract a Ph.D. candidate some day, if such a dissertation has not already been produced.) These studies were conducted under the auspices of the National Institute of Drug Abuse and have been published recently under the title *Angel Dust*.²

The project that coordinated these studies was prompted by a widespread concern—perhaps, in some quarters, a panic—over the sudden eruption of PCP as a recreational drug for younger adolescents. No one had foreseen it before the mid-seventies when there was a spate of news stories about the horrifying impact of PCP on very young people. There was little solid information in the hands of the authorities to put these articles into an understandable context. Indeed, there had been little awareness that PCP existed and was in use among high school and junior high school students. But PCP casualties began to arrive in hospital emergency rooms. Some of them were in their early teens, and some had suffered severe brain damage. It seemed urgent to stop the spread of PCP if ways could be found to do it.

Gradually we get smarter. Perhaps because the problem was so unexpected, perhaps because past failures haunted the agencies charged with narcotics control—or perhaps because no one had any plausible course of action to propose—it was decided that much more had to be known about PCP than could be learned at metropolitan county hospitals.

PCP had been around for a long time. It was developed in 1926 as a possible surgical anaesthetic and given the synthetic designation, "Sernyl." Progress in testing must have been slow, but by 1957 it was decided that there were too many undesirable side-effects to justify its use on human patients, in spite of the euphoria that some surgical patients reported upon regaining consciousness. Cardiac disturbances, convulsive seizures, hallucinations and delirium were reported too frequently to allow its inclusion in the repertory of approved anaesthetics. It is still used in veterinary medicine and commercially manufactured for that purpose. Its preparation appears to be relatively simple, and one of the reasons for its rapid spread in the early seventies was the ease with which it could be synthesized by basement chemists and distributed with little fear of police interference. It would be interesting to trace the progress of PCP from the

laboratory in which it was first discovered to the streets on which it is used, but no one has volunteered to take on this obviously difficult investigation.

What the National Institute of Drug Abuse wanted were answers to three questions which could not be reliably elicited from the casualties of PCP. Ethnographers were to report their findings on "What are those people like?" "What do they do all day?" and "What do they think about themselves, their daily life, and the social environment they move through?" (p. 19) There was not much time for the studies, which were done in 1978; the Office of Management and Budget refused to authorize more than 3½ months to conduct them. Four cities were chosen for the project; the choice was governed by the availability of qualified ethnographers free to take on work of great difficulty at short notice and at a hectic pace usually considered impractical for successful studies. The four sites were Philadelphia, Seattle-Tacoma, Chicago, and Miami. Findings differed from city to city, but there were some common features in PCP distribution and use in all four. The studies have much to say about the people who use PCP and what it does to them. They have even more to say about the culture in which they live.

Consider the people first. Most of the users who confided in the ethnographers thought of PCP as a "garbage drug," something to be used on occasion because it was available or because it suited the mood of the group of narcotics users who happened to be together. There were some exceptions. The Seattle-Tacoma ethnographers fascinated me with their account of Shoena, a young Native American woman who was a constant and enthusiastic user. Described as an "earth mother," she was the center of a network that included a circus roustabout, a merchant seaman, an unemployed dwarf, high school girls, ex-convicts, a middle-aged suburban housewife, a violence-prone mountain hunter, a Chicano restaurant owner, a bank executive, a paper-mill worker, and numerous itinerant carpenters, artisans and craftsmen, "and a number of cats and dogs." Shoena told the ethnographers, "I'm a duster, through and through." (p. 115) She was also a distributor; her coterie depended on her for supplies. When advice was needed, she could give it, and when one of her network had a bad trip or was in jail she would be the first to visit. Her own use of PCP seemed to enhance her efficiency: "Shoena says that if you make a list so you do not get distracted it is possible to get an incredible amount of work done. Her house is clean, her kids well taken care of, and PCP is no problem except for her probation officer and the weekly urines." (p. 117) Some of her circle are not so fortunate. Peaches, a young divorcee, used PCP alone, apparently obsessed by its hallucinogenic effects. She knew that it was "ruining her life," but she could not give it up. "She had hallucinations of parts of her body expanding and often did space trips. Peaches would see a space ship landing outside her house. She would go outside and call all the neighbors to see the Martians. Hallucinations and body changes would alternate until she blacked out."

In contrast there was Bruce, an "upper-class" professional in Miami, who shared with Shoena the function of central figure in a PCP network. A man of considerable wealth, he thought of his group as "cognoscenti," and PCP was only one of a large repertory of drugs used in gourmet fashion. Large supplies would be stored so that there need never be a time when a cognoscento would be unable to combine the correct sequence of drugs so that a special experience could be arranged. Bruce offered this example of his experiences to help the ethnographer understand: "It's so subjective and so much has to do with your expectations and setting. Also I find that I can vary the effects by varying the setting. ...Like I was waterskiing...on acid a bunch of times I found it very interesting to do waterskiing with PCP because it was...wasn't like a new drug but like a little bit of a different experience." (p. 197)

Ethnographers found networks in each of the cities studied. Whether the groups were young adults, as in Tacoma and Miami, or adolescents, as in Philadelphia and Seattle, there seemed always to be a central figure who introduced the drug to

² Harvey W. Feldman, Michael H. Agar, George M. Beechner, *Angel Dust: An Ethnographic Study of PCP Users*. Lexington, Massachusetts: Lexington Books, 1979.

the group and acted as a major-domo for the festivities its use made possible. It is not clear that any of these individuals, with the possible exception of Shoena, had much trouble with the law.

PCP had advantages over almost any other drug. Its dangers were fairly well known, but it was "cheap, easy to get, easy to use, and easy to hide." (p. 156) Two "tokes" (puffs on a PCP-impregnated joint of marijuana) are enough for a high that will last for 5 or 6 hours. For some users, the danger is a challenge. One's sophistication is demonstrated by the care with which one assesses a new batch of PCP for purity and power and calibrates the dosage accordingly. The fact that one can handle the drug is in itself a token of one's mastery of the street pharmacology required for survival.

Although Shoena and Bruce catered to adult users of PCP, most of the networks consisted of boys and girls of high school age. James Walters, the ethnographer for the Philadelphia study, analysed its use by reporting to a familiar typology. According to him, high school students can be categorized as "straights," "cools," and "rowdies." The straights include both "brains," (the achieving students) and the jocks—these subgroups have in common talents that justify submission to the disciplines of study and training. Straights seldom used drugs, but when they did—Walters was told—"they get all giddy and goofy, and do stupid stuff...It's embarrassing." (p. 76) Cools value nonchalance and inconspicuousness. They are cool enough to take risks and avoid the boisterous and destructive behavior that was characteristic of the rowdies. Walters was told that one didn't have to use drugs to be considered cool, but no one could think of a cool who didn't.

What comes through in all four studies is the perception that for a lot of young people in these dissimilar cities life is boring and without prospect of getting better by acting on conventional expectations. For the "brains" and the jocks various avenues to better things are open because of their special talents. Without those talents, effort goes unrewarded. There is nothing to do. Getting stoned enhances sociability, expresses an attitude of defiance, and offers an escape into a world in which life consists of uppers and downers and plans to get high as often as possible.

In spite of the thrills that these young people found in accepting the challenge of PCP, the sense of danger was real and always present in the consciousness of those who used it. Everyone knew of someone who had been burned out and had become a zombie, a ruined person, because of PCP. Such people were depressing to have around; one avoided them. They spoiled the pleasure of others and would interfere with the success of a party.

Short of burnouts, there were misadventures with PCP. Each of the ethnographers reported on the responsibility that users felt for each other. People who got too high had to be taken care of properly. Most users avoided taking PCP alone—Peaches in Seattle was an outstanding exception, but she had Shoena to look in on her and see how she was getting along. PCP is a party drug, an experience to be shared with others in the interests of both pleasure and safety.

Each of the ethnographers reported incidents of violent behavior, both assaultive and self-destructive. They stressed that violence is the exception; most users managed to control their use of PCP without adverse side effects.

In each city, PCP was going out of style in 1978. Its unpredictability put it at a disadvantage when compared with marijuana which everyone can get and which presents no special dangers, or cocaine, if one can afford it. The quality of PCP is deteriorating. One Miami user said, "It's a garbage drug. They just throw anything into it now. You don't know till you catch a run what it's going to be. It comes in as something this week and something else next week, and two weeks ago it was something different....I'm very cautious with it, and I try to teach everyone else who's doing it to be very cautious. Do a pinhead, a match-head, but don't start cutting lines like you would coke." (p. 198)

This reaction seemed to be general. I note that much less is heard about angel dust this year; it may be one of those rare problems that goes away without anyone designing a program to solve it.

That doesn't mean that the problems of the young people who have chosen PCP as an alternative to meaningless school and nonexistent work have vanished. They are still afflicted with ennui, formerly a problem restricted to the rich. Society has always been able to tolerate, if not to ignore, the miseries of the bored and idle rich; there have never been enough of them to bother with. The bored and idle poor are impossible to disregard. There is no reason to suppose that their numbers will decline. Their choice of relief, if it must be chemicals, will keep criminal justice busy with their problems for a long time to come.

THE ETHNOGRAPHERS

Social scientists in our times rely heavily on quantification. We count, we distribute what we count into categories, we devise and use formulas by which the numbers in each category can be tested for significance and reliability. A distressing lot of this quantitative research is expertly done and without apparent value for the increase of knowledge or the improvement of the human condition.

Ethnography is a comparatively new discipline. The editors of *Angel Dust* trace their scientific pedigree back to Bronislaw Malinowski, the Polish anthropologist who was stranded in the Trobriand Islands at the outbreak of World War I and devoted the ensuing years to an intensive study of Melanesian society and culture. To transplant the methods of Malinowski from Melanesian villages to the drug cultures of American cities is a leap that calls for conceptual nimbleness and more time than the ethnographers whose work is reported here were allowed. Still, it cannot be denied that we know who these people are, what they do all day, and what they think about themselves and their environment. That was the task to which these ethnographers were assigned, and it certainly could not have been accomplished by survey research, quantitative methodology, or by looking at those dusters who came to the attention of the authorities. What these four groups of researchers produced has enough commonalities to give the work of each a special character of authenticity. I believe what I have read, but I am perplexed by a question that perplexes all social scientists and those who hope to learn from them: *What does it all mean, and what should we—or must we—do about it?*

Therein lies a problem of bias that seems to be inextricable from the methods of ethnography. Michael Agar, one of the editors of *Angel Dust*, comments that "(ethnography) is perhaps best viewed as a friendship that occurs because of a research project, but a friendship nonetheless." (p. 26) The ethnographer can take himself and his readers behind the statistical columns, the path analyses and the frequency distributions to find the people who make up these figures. They can also find the people who do not come to official attention and who are not accessible to conventional social scientists. In *Angel Dust* we are confronted with the majority of dusters who don't get arrested and who don't decline into conditions requiring clinical attention.

Agar is explicit in his interpretation of all these findings. Believing that ethnography provides a "much more sophisticated base for policy-makers to answer some difficult questions," he asks, "Is a response called for? If so, what forms of use constitute 'abuse,' on what basis, in whose terms? Given an 'abusive' form of use, what sort of services should be provided, if any?" These are pertinent questions, far removed from the nearly hysterical reactions to angel dust that provoked this study in the first place. Implicit in their context is the underlying position that PCP is not a matter for value judgments, that people should be free to use it or not as they choose. To be fair, Agar nowhere says as much, but his opposition to strenuous intervention leads to an inference that laissez-faire is the appropriate strategy. Agar has nothing to say about the need for control, if control of a substance like PCP is possible. Nor does he touch on what is to me the most disturbing feature of the PCP eruption—the fact that it was so frequently a phenomenon that attracted early adolescents, children as young as 13 or 14. The ethnographers help us understand why this is so, but we have little help on strategies for keeping this unpredictable and potentially dangerous drug out of their hands. Surely laissez-faire is

not the answer for junior high school students minded to try out an exciting new trip.

What PCP says about PCP users is tragic enough. A youth whose environment is so wretched that PCP can attract him as a diversion is in a bad way indeed. But what PCP says about the quality of youth culture in the seventies and, I must suppose, far into the eighties and nineties must cause profound concern to criminologists in particular and to the whole of our society. How we respond to what these ethnographers have had to tell us in *Angel Dust* is beyond my wisdom. But the kids who use PCP are not the leaders of tomorrow; they are not likely even to be followers of any national purpose. We shall be lucky if they and thousands like them do not become burdens on a society that does not understand them.

The ethnographers have so far done little to assist the criminal justice system in the achievement of certainty about its role and policy with respect to PCP or any other drug. I will agree that that is not their task. But they have expanded our knowledge

about the phenomenon. We know that although angel dust is terrible stuff for some, there are others who manage a sort of innocent pleasure by dosing themselves with it, and with a lot of other chemicals on the forbidden list. The attorney general whom I quoted in this review enjoyed a certitude about marijuana that embraced all the other drugs that dusters enjoy. That certitude was wrong, and surely it has caused at least as much grief as it has prevented. But criminal justice cannot tolerate ambiguities, and should not. Our research must be directed at settling the questions that Agar has raised and determining what the state should do for sure. Total certainty is probably beyond our powers to achieve, but we certainly can reduce the conceptual chaos that now surrounds issues like those presented by Shoena and Bruce. My guess is that what the ethnographers tell us will be far more important in the achievement of understanding than anything the conventional social scientist can contribute.

Looking at the Law

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EFFECT OF SETTING ASIDE CONVICTIONS UNDER THE YOUTH CORRECTIONS ACT/UPDATE

Recently, important changes have occurred in the effect given set aside judgments of convictions in Youth Corrections Act (YCA) cases.¹ The set aside provision is codified at 18 U.S.C. Sec. 5021 (a) and (b). The provision to set aside the conviction of a youth who had successfully completed his program of rehabilitation was seen by its authors as the foremost beneficial aspect of the Youth Act, and the Supreme Court has twice noted the idea that the set aside was intended to provide a youth with a special value. In *Dorzyński v. United States*, 418 U.S. 424 (1974), the Court said:

A powerful tool available to the (Youth) Division was its discretion to discharge committed persons unconditionally before it was required to do so, for upon such discharge the conviction upon which sentence rested would be automatically set aside. 18 U.S.C. Sec. 5021(a).

418 U.S. at 437. More recently, in *Durst v. United States*, 434 U.S. 542 (1978), the Court said:

A particularly valuable benefit for the offender sentenced under the YCA is the prospect of obtaining a certificate setting aside his conviction.

Nevertheless, the language used in the Act is imprecise and the effect given the provision over the years has not been uniform. As a result, the provision has failed to provide a youth with the promise it purported to extend. Recently, there have been numerous court and administrative decisions which have begun to clarify and give full meaning to the set aside provision. We would like to discuss briefly the background of the legislation, the status of recognition given the provision by state and Federal agencies, and finally, the status of recognition given the provision among the circuits with respect to the most important issue, whether the set aside provision authorizes or requires expunction of the youth's conviction record, including his arrest record.

¹ See earlier articles on this subject: Kutcher, "Looking at the Law," 43 Fed. Prob. Q. 67 (Dec. 1979); and Kutcher, "Looking at the Law," 43 Fed. Prob. Q. 58 (Dec. 1978).

A. Background.—The primary thrust of the remarks by various Judicial Conference judges concerned with the Youth Act legislation was that the set aside provision wiped the youth's criminal record clean. However, there were comments which blurred the clarity of this intent, rendering the remarks of the various judges ambiguous with respect to the exact relief to be granted by the provision. The remarks of Chief Judge Parker and Chief Judge Orie L. Phillips are quite illustrative of this fact.

Chief Judge Parker stated:

...one feature in this bill which is very salutary and that is if the youth offender is reclaimed..., they can strike out the sentence imposed on him and completely set aside his conviction so that he will not have a criminal record staring him in the face. (Emphasis added.)

As cited in *Doe v. Webster*, 196 App. D.C. 319, 606 F.2d 1126, 1236 (D.C. Cir. 1979).

Getting a job is the most important tool of rehabilitation. Each of the probation offices now has designated an employment officer just for this purpose. Judge Phillips' comments reflect this intent to enhance a youth's employment by "wiping out the conviction," but they also suggest that the youth would have to discuss the set aside conviction with a prospective employer. Thus the net result of his remarks on the meaning of the set aside is negligible.

Chief Judge Phillips observed:

...The Act does provide for the wiping out of the conviction if the youth is discharged, rehabilitated, and behaves himself well after his period of supervision. The purpose of that is to help him get a job and keep him from having to be turned down by a prospective employer because of the fact that he has a conviction. (Emphasis added.)

But Judge Phillips' further statement, that the Act:

...does not entirely remove the difficulty but he can say to the prospective employer, "I have gone through this thing. They think I am rehabilitated and have given me this clearance and I think I am rehabilitated and can make good." has, in the eyes of some courts...lent ambiguity to section 5021.

Doe v. Webster, supra, 606 F.2d at 1236 & n. 41.

B. *Poll of States*.—In an effort to determine the effect given the set aside provision by the states, we polled 50 state attorneys general. We received very discouraging responses. Most reported that they gave it no effect. As a result most youths are barred from jobs requiring a license, e.g., even a bartender. One commentator concluded that unless the statute is amended to provide more clarity or the circuit courts take a more uniform position concerning the meaning of the set aside provision, states and state agencies will continue to have this negative attitude toward the set aside provision. Schaefer, "The Federal Youth Corrections Act: The Purposes and Uses of Vacating the Conviction," 39 Fed. Prob. Q. 31 (Sept. 1975) (Schaefer).

C. *Federal Response; Collateral Effects of the Set Aside Provision*.—The recognition of the set aside provision at the Federal level was initially mixed, but more recently the set aside is being accepted as eliminating the conviction. Several issues are illustrative: Is a set aside conviction eliminated (1) for purposes of the firearms law; (2) for purposes of the deportation laws; (3) for purposes of private access, such as credit reports; and (4) for purposes of responding to questions concerning conviction or arrest for Federal employment. Let us briefly describe the developments in each of these areas:

(1) *Prior conviction for Firearms Law*

The Department of Justice initially informed us by letter that they would not prosecute youths with set aside convictions under the firearms law. It subsequently reversed their position. However, in the light of three circuit opinions holding that the set aside provision effectively eliminated the conviction for purposes of the firearms laws, the Department of Justice returned to its initial position: *United States v. Arrington*, No. 79-5327 (5th Cir. June 12, 1980); *United States v. Purgason*, 565 F.2d 1279 (4th Cir. 1977); *United States v. Fryer*, 545 F.2d 11 (6th Cir. 1976). The Department of Justice sent a letter to Wayne Jackson, then chief of the Probation Division, informing him of its most recent stance on this issue. The letter concluded: "It is now the position of the Department of Justice that an ex-offender whose YCA sentence has been set aside pursuant to 18 U.S.C. Sec. 5021(a) or (b) is not a convicted felon for purposes of the Federal statutes which place disabilities on felons to receive, possess or transport firearms."²

(2) *Prior Conviction for Deportation*

A similar development occurred with respect to deportation. There have been two circuit cases holding that a set aside conviction cannot be used for the purpose of deportation. See *Rehmen v. INS*, 544 F.2d 71, 74 (2d Cir. 1976); *Morera v. INS*, 462 F.2d 1030 (1st Cir. 1972); but see *Hernandez-Valensuela v. Rosenberg*, 304 F.2d 63.9 (9th Cir. 1962). In the *Hernandez* decision, the Ninth Circuit took the position that the mere possibility, as opposed to the actuality, of receiving a set aside did not preclude an alien from deportation. This distinction is no longer relevant since the Immigration and Naturalization Service has administratively determined that, "the issuance of an expungement certificate bars institution of deportation proceedings which would be based on the expunged conviction."³ INS defers institution of deportation proceedings with respect to any conviction for which expunction is being sought until the time when it is clear whether the individual will, in fact, have his conviction set aside.⁴

(3) *Private Access of Set Aside Conviction*

One court has ruled on the issue of a private party's access to a set aside conviction record. In *Fite v. Retail Credit*, 386 F. Supp. 1045 (D. Mont. 1975), *aff'd*, 537 F.2d 384 (9th Cir. 1976), the youth's employer discovered his conviction because a credit reporting service had recorded and reported its existence. The district court denied the youth's effort to enjoin the credit reporting service from disclosure of the conviction record. This case,

of course, strikes at the preeminent objective of the set aside provision, which was to enhance the youth's opportunity to gain employment and thus successfully pursue a rehabilitated life. However, to the extent that the set aside provision is understood to authorize or require actual expunction of the youth's conviction record, the problem posed to a youth by the ruling in *Fite v. Retail Credit* is greatly attenuated.

(4) *Responding to Questions Concerning Conviction or Arrest for Federal Employment*

Some agencies allow a youth to deny the existence of a set aside conviction. (See Schaefer, supra at 33). Schaefer points out that some government agencies expressly permit a negative response for "set aside" convictions. The Civil Service Commission advises applicants not to disclose "law violations committed before the applicant's 21st birthday in which the charge was adjudicated in a juvenile court or under a youth offender law." *Id.* at 33. Also, the Federal Personnel Manual states that a youth need not answer "yes" regarding a question concerning convictions. *Id.* In effect, the issue is whether the youth has a "license to lie" about a set aside conviction, free of private suits or government prosecution for perjury or false statement. This has been a very troubling problem for probation officers struggling to advise youths. Three courts have now ruled on the issue, holding that section 5021 implicitly authorizes a youth to give a "no" response to questions regarding a set aside conviction. See *Doe v. Webster*, supra, 606 F.2d at 1244; *United States v. Doe*, No. 75-91, slip op. at 4 (D. R.I., August 8, 1980); *United States v. Henderson*, 482 F. Supp. 234, 244 (D. N.J. 1979).

D. *Expunction of a Set Aside Conviction*.—Expunction of a set aside conviction is the most significant development in the case law regarding the set aside provision. There is a split among the circuits regarding whether a set aside conviction can or must be expunged. By "expunction," courts requiring or permitting it mean physically sealed, rather than physically destroyed. The evolution of case law in this regard is moving from "no expunction," to requiring expunction. Let us note the circuit decisions as they have been issued.

As a matter of first impression, the Eighth Circuit in 1976 addressed this question when a youth with a set aside conviction requested the district court to expunge his conviction. The court, in an *ex parte* order, granted the relief, finding implicit authority in sec. 5021(b). The government appealed. The court concluded that expunction relief could not be granted implicitly under the YCA or through the exercise of its inherent equitable powers. *United States v. McMains*, 540 F.2d 387, 389 (8th Cir. 1976). In 1977, the Sixth Circuit was faced with a similar request, and joined the Eighth Circuit in finding expunction not permitted. *United States v. Doe*, 556 F.2d 391, 393 (6th Cir. 1977). Both decisions were premised on a rather superficial analysis of the issues. The primary concern was that Congress had used express "expungement" language in subsequent legislation, the narcotics laws. See U.S.C. sec. 844(a) and (b). Therefore, the courts asserted that Congress would have used such language had it intended the set aside provision to have that effect. In addition, the courts stressed that the Act failed to provide expressly for the obliteration of the conviction record. *McMains*, supra, 540 F.2d at 389; *Doe*, supra, 556 F.2d at 393.

In 1979, the Court of Appeals for the District of Columbia issued a thorough and scholarly opinion on this issue. *Doe v. Webster*, supra. It evaluated and rejected each concern expressed by the Sixth and Eighth circuits, 606 F.2d at 1232-33, and concluded that the set aside provision automatically requires expunction of the youth's set aside conviction record, 606 F.2d 1243, but not his arrest record, 606 F.2d at 1231. Also, as noted earlier, the court authorized a youth to answer any questions concerning his conviction with a "no" response. 606 F.2d at 1244. In ruling for expunction, the court explicitly set forth a workable definition of the expunction concept which provides that the youth receive effectual relief from the stigma of his conviction, yet assures that the government's legitimate interests in maintaining the conviction record are also accommodated. Under *Webster*, the FBI is to store a conviction record in a

² Letter to Wayne Jackson from Phillip B. Heymann, Assistant Attorney General, Criminal Division, dated November 15, 1979.

³ Internal Operating Instructions 342.1(a)(26) at page 2852.5 14-27-77).

⁴ *Id.*

physically distinct file, but maintain a nonpublic file to be used for criminal investigations. 606 F.2d at 1243-44. This definition of expunction thus does not authorize the "obliteration" that *Doe* and *McMains* were concerned about and, therefore, may be consistent with those opinions. See *Henderson*, *supra*, 482 F. Supp. at 237 n. 2.

Two district courts have subsequently followed *Webster's* position: *Henderson*, *supra*, and *United States v. Doe*, No. 75-91 (D. R.I., August 8, 1980). In *Henderson*, the District Court of New Jersey adopted the *Webster* position with respect to expunction, but departed on the issue of what was to be expunged, finding that it was necessary for the court to include the youth's arrest record within the statutory word "conviction" in order to effectuate the intended objective of the set aside provision:

...we discern no intention of Congress to distinguish the youth's arrest record from his or her record of conviction. Only by applying a comprehensive definition to the word "conviction" in section 5021, one which incorporates all of the elements of the prosecution, will the set aside expungement provision serve the legislative purpose by providing the youth offender a clean slate and a fresh start in life.

Webster had found that sec. 5021 had to be understood as an expunction provision to avoid forcing a youth to make a "Hobson's choice": If the youth admitted the conviction he would likely be denied a job, yet if he lied and was found out he would also be denied the employment. *Henderson* concluded that a similarly adverse situation results when the arrest record remains after the expunction of only the record of conviction. *Id.* at 242, n. 11. The court reasoned that if an employer could still discover the existence of an arrest record, he would ultimately confront the youth with that record, inevitably forcing the youth to acknowledge the conviction as well. *Id.*

Most recently, Chief Judge Pettine, District of Rhode Island, issued an opinion on the expunction issue, *Doe*, *supra*, and, like *Henderson*, adopted the interpretation and analysis of *Webster* except with respect to the issue of the expunction of the arrest record. On that matter, the court concluded that the arrest record must be expunged.

As with *Henderson*, the court ruled that the legislative history pointed to a comprehensive definition of the word "conviction" in sec. 5021, a definition "encompassing the (youth's) entire slate from arrest to sentencing." *Id.* at 9. According to *Doe*, a court's failure to seal arrest records would in many cases deprive the youth of the very advantage he acquired by the sealing of the record of conviction. For example, "75% of the employment agencies in New York City will not refer someone (for a job) who has an arrest record..." *Id.* at 9, citing Note, *The Expunction of Criminal Records Under the Federal Youth Corrections Act*, 26 Wayne Law Review 1111, 1123 (1980). Finally, the court

noted that the retention of a youth's arrest record serves no legitimate government purpose where the expunction order provides that the Department of Justice is to maintain a nonpublic record of the conviction record for criminal investigation purposes. All of the courts interpreting sec. 5021 to authorize and require expunction define the concept as including the retention of a nonpublic record of the youth's conviction record by the Department of Justice.

It is worth noting that quite a number of district judges have issued expunction orders in unpublished decisions and that most of these have included expunction of the arrest record as well as the conviction. See, e.g., *United States v. Blankenship*, No. T-CR-2001 (D. Kan. 1979); *United States v. Cuttler*, No. 75-383-Cr.JE (S.D. Fla. 1979). See cases noted in *Henderson*, *supra*, 482 F. Supp. at 242-43 n. 12.

While both *Henderson* and *Doe* found expunction implicit in the YCA, each alternatively ruled that the court could effectuate expunction by virtue of its Article III equitable power. *Henderson*, *supra*, 482 F. Supp. at 244; *Doe*, *supra*, slip. op. at 6. See also *United States v. Hall*, 452 F. Supp. 1008, 1013 (S.D.N.Y. 1977). *Contra*, *Webster*, *supra*; 606 F.2d at 1232; *McMains*, *supra*, 540 F.2d at 389-90.

In that connection, one other case is worth discussing. *United States v. Hall*, *supra*, 452 F. Supp. at 1013. In *Hall*, the Southern District of New York issued an opinion, prior to *Webster*, which denied expunction authority under sec. 5021, but took the position that it could grant expunction relief in a Youth Act case based on its inherent Article III equity authority. *Hall* denied relief to the particular plaintiff before it, based on specific facts related to the petitioner. The youth's conviction involved a very serious crime, a bomb threat. Also he had absconded from probation before returning and completing it satisfactorily. By contrast, the plaintiff in *Henderson* had been convicted of taking \$100 from the United States mail, and by his schooling, employment, and community service he had shown his complete rehabilitation. *United States v. Henderson*, *supra*.

In conclusion, the recent trend of Federal agencies is in the direction of giving collateral effect to the set aside provision. The growing consensus among federal courts is to interpret section 5021 as automatically entitling the youth to have his set aside conviction expunged (sealed), while authorizing the Department of Justice to maintain a nonpublic record for criminal investigation purposes. Lastly, courts are beginning to extend the definition of the word "conviction" of sec. 5021 to the entire criminal episode, including the arrest record. These are encouraging signs, encouraging because they add substance to the promised "valuable benefit" of a set aside conviction. Hopefully, more circuit courts, and eventually the Supreme Court, will adopt this view of the meaning of the set aside provision, including the expunction of the youth's arrest record.

Reviews of Professional Periodicals

THE INTERNATIONAL JOURNAL OF THE ADDICTIONS

Reviewed by DAVID M. PETERSEN

"Patterns of Drug Use Among Women," by Joanna Tyler and Marian Thompson (April 1980). This study focuses on women's primary patterns of abuse for various drugs at time of treatment admission to selected drug treatment centers during 1976.

Women constitute a minority group in most drug treatment programs and many attribute this fact as a probable reason why specific drug use research into the patterns and characteristics of abuse among women as a special interest group has been ignored or given slight recognition. This study addresses the primary patterns of drug abuse for heroin, marijuana, amphetamines, barbiturates, and sedatives existing at the time of treatment admission in relation to age at first use and education for white, black, and Spanish-speaking women. The sample, consisting of 14,428 female clients admitted to federally funded drug treatment centers during the third quarter of 1976, was selected from data presented in the National Institute on Drug Abuse's *Statistical Series Quarterly Report* (1976). This report is a compilation of information from the client Oriented Data Acquisition Process (CODAP) form. This sample does not include women unassociated with any treatment program. The study results reveal that the highest degree of heroin abuse occurred in the 19 to 20 age at first use category for all races, and the lowest level of heroin abuse occurred at age 15 or less. Marijuana is the second most commonly abused drug among these women. Women with 10 to 12 years of education have the largest percentage of heroin abuse while women with 9 years or less of education include the smallest percentage of heroin abusers. Education data appear to be correlated with age at first use date. White women use heroin to a lesser degree than either Black or Spanish-speaking women. This is true regardless of age at first use. Marijuana is used to a higher level by white women than by either Black or Spanish-speaking women. Women who were 26 years of age or older when they began using drugs, report sedatives as the second most widely abused drug, followed by barbiturates, amphetamines, and marijuana. In the main, the findings corroborate the fact that the age at first drug use is dropping and that younger females are developing adverse behavioral patterns during their adolescent years when social growth and development are critical. Implications from the current research are provided for prevention, treatment-rehabilitation, and future research. The authors call for indepth studies focusing on women by region and type of drug misuse in order to alert program managers to existent trends, followed by plans to deal effectively with the findings.

"Family Experience and the Motives for Drinking," by Henry S.G. Cutter and Joseph C. Fisher (April 1980). Motives for alcohol use by students were hypothesized in this study to be related to the family socialization experience.

A sample of 128 undergraduate students attending a northern university were subjects of this research into the relationship between family socialization experience and the reasons or motives for drinking. A measure of motives for drinking was utilized in this study as the principal dependent variable, rather than a measure of the current drinking behavior or the consequences of problem drinking, because the authors posited that this measure is likely to be more prognostic of future problem drinking among a predominantly prealcoholic population. To ensure the independent assessment of the effects of each of the 15 predictors of motives for drinking employed in this research, a principal components analysis with varimax rotations was performed on the independent variables. Further, orthogonalized and normalized scores were computed for each subject on each variable. The use of these procedures ensured that the correlational analyses of

the several independent variables reflected their unique rather than their common variances with the dependent variable. The findings indicate that the frequency of intoxication by the mother was linearly and positively related to the number of reasons checked by students for drinking. Extreme closeness and extreme distance between the parents was related to drinking for personal effects (to improve self-esteem), while neutral or ambiguous attitudes toward drinking by the father were related principally to moderately serious personal and interpersonal reasons for drinking. The findings suggest that college students are at risk of becoming problem drinkers to the extent that their family socialization experience included maternal deviant drinking, weak or fuzzy paternal norms about drinking, and extreme closeness or distance from parents. Family conditions that lead to poor self-esteem were seen as a necessary but not sufficient cause of problem drinking. The authors provide suggestions for future research and for a new, conceptually related alcoholism-prevention program.

CORRECTIONS MAGAZINE

Reviewed by OMAR G. RIOS

"The Price of Safety: 'I Can't Go Back Out There,'" by David C. Anderson (August 1980). Violence appears to be increasing and control seems to be declining in many of the Nation's larger prison systems. Because there has been a rise in the level of inmate fear protective custody units are overflowing in certain prisons. The fear has also contributed to management problems upon prison administrators. This fear problem has generated new litigation as inmates in protective custody have been challenging the conditions of their confinement. Prison administrators have, therefore, focused more on how to guarantee an inmate his life without totally dehumanizing him.

Inmate-to-inmate violence has been increasing for several years and prison officials blame the trend on the following factors: overcrowding, shrinking resources to deal with violent inmates, changes in the inmate population, breakdown of old authoritarian patterns of prison administration, more inmate legal right guarantees, and more freedom and mobility within a prison. Factors that have led to the trend for more inmate protective custody services are: (1) the growth of the drug culture, which has generated a whole new class of informers, (2) the growth of inmate gangs and cliques, (3) the relaxation of rules governing communication by mail and telephone, (4) recent court decisions and new laws increasing the due process required to place an inmate in disciplinary segregation, and (5) the increasing willingness and ability of inmates to sue for damages and the likelihood that prison officials may be held personally liable for injuries suffered by inmates in their care.

Despite whether or not they face lawsuits, prison administrators are looking for ways to deal with inmates in protective custody. At the New Hampshire State Prison, the warden turned over the metal factory to protective custody inmates. Other administrators believe that reciprocal inmate exchange programs can be worked out between states. California has changed an entire institution to housing protective custody inmates. States that are large enough and who have an elaborate prison system can put into operation such a plan to deal with this type of inmate. Two other prisons, one at Shelton, Washington, and the other at Stillwater, Minnesota, are experimenting with ways to enrich the lives of protective custody inmates within the confines of a regular prison. At these two institutions efforts are being made to deal with the situation rather than to avoid the situation. One program is for unit managers to engage in an aggressive program of counseling to build up an inmate's confidence and to encourage them to return to the general population.

"The Retarded Offender: A Problem Without A Program," by Bruce De Siloa (August 1980). Estimates from studies made on the retarded offender indicate that approximately 25,000 inmates, or at least 5 percent, are retarded. Others estimate a higher percentage of the population to be retarded. Few jail or prison administrators even try to identify or to provide special programming for them. The coordinator for the President's Committee on Mental Retardation feels that the task for the courts and corrections agencies is to identify the retarded offender and to tailor diversion programs for them. Few corrections departments have identified retarded inmates and have started special programs. Where started, the programs have been small and limited to juveniles. The only special adult probation program for the retarded offender has been in existence 7 years at Pima County, Arizona. However, budget cutting threatens this program's future. Some states, such as Georgia, South Carolina, North Carolina, California, Washington, Tennessee, Virginia, Texas, and Maryland, are making special efforts to help and protect the retarded offender. This article mentions what these states are doing to deal with the retarded offender. The general theme of these efforts is: identify the retarded offenders, assess their needs, and develop a plan to work with them.

A major obstacle to the development of more programs has been the opposing beliefs held that (1) the mentally retarded offender is less a lawbreaker and should be placed in a treatment facility specifically designed to provide all necessary instruction, and (2) that mental health agencies are ill-suited to deal with sometimes violent and aggressive behavior of the retarded and that such people can be treated only in a correctional facility.

SOCIAL WORK PERIODICALS

Reviewed by HARVEY TREGER

"Lawyer and Social Worker as an Interdisciplinary Team," by Barta C. Bernstein (Social Casework, September 1980). The author states, "The purpose of this article is to express and outline problem areas in which the social worker and the lawyer can truly operate as an interdisciplinary team, interacting with each other, cooperating in establishing the best long range plan commensurate with the client's needs, and exchanging and resolving both conflicts and agreements as these pertain to the best informed interests of the client." From the first illustration, it can be seen that social workers are certainly not qualified to provide legal advice but by the same token lawyers frequently invade the territory of social work believing that no specialized training is needed for counseling. Although the author discusses the consequences of legal decisions on the social condition and life of the parties, e.g., in premarriage, custody, divorce, and postdivorce situations, the areas where lawyers should utilize social work services need greater illumination. Perhaps a companion article for a legal journal could accomplish this objective. Nevertheless this is a very practical article which can sensitize social workers and probation officers to actions that have legal consequences which most people never think about but could benefit from professional advice.

"The Impact of Social Change on the Practitioner," by Morton R. Startz and Helen F. Cohen (Social Casework, September 1980). The major focus of this article is that "changing family values and life styles can cause uncertainty in diagnosis and demand a greater self-awareness of the worker's personal value system and its effect on treatment." Major areas discussed are: sexual values and behavior, the nuclear family and the impact of divorce and self-actualization, etc. The authors use case illustrations to make the point. Staff seminars with varied age group personnel can serve as a beginning for emotional desensitization in staff acceptance of new life styles. Continuing education is also recommended coupled with supervision and consultation. Finally the agency is asked to look at its own value system concerning family life. This article suggests that the therapists may need as much help or more than the client to update their orientation, diagnostic, and treatment approaches. Being a helping

person requires ongoing and continuous examination of one's self and oversight by others. There is no doubt that these are the ingredients of true professionalism.

"Support: A Necessary Condition for Change," by Judith C. Nelsen (Social Work, September 1980). The author writes a well organized logical exposition of the subject. This article explores four different types of support social workers may offer clients: protection, acceptance, validation, and education. Each type is intended to meet a different need on the part of the client. Assessing the client is essential for determining the appropriate type of support and resources needed. A framework for doing this is suggested. The article also examines the social workers attitudes toward support and feeling of being supported in the agency as influencing variables. Ways to help clients who refuse support or rely on it too heavily are discussed. A concluding statement on the needs for research, i.e., to clarify the range of supportive procedures social workers use; how their attitude about support and receipt of it in their agency affects the support given to clients; and how supportive procedures facilitate the use of other social work techniques as well as when and under what circumstances support helps clients change. This is a useful article for the practitioner and should be widely read.

THE BRITISH JOURNAL OF CRIMINOLOGY

Reviewed by HARRY W. SCHLOETTER

"The Impact of Burglary Upon Victims," by Mike Maguire, Research Officer, Centre for Criminological Research, University of Oxford (July 1980). Because of the expanding interest in the "Victims Support Schemes," this well-written article on the impact of burglary upon victims is most welcome. At the present time, primarily through voluntary agencies, victims of burglary are assisted through a handful of voluntary victim support schemes. The object of the author's paper is to provide a more detailed account of victims' reaction to a burglary and to consider some of the ways in which these effects might be alleviated. The research was based upon interviews with 322 victims of burglary in a dwelling, carried out in the Thames Valley police force area between 1977 and 1979. The interviews took place between 4 and 10 weeks after the burglary was reported and the victims were asked to recall the initial impact as well as the effect upon their lives during the intervening period. Interviewees were drawn from three separate police sectors. One of the sectors contained a medium-sized market town and surrounding villages, another a town of 130,000 inhabitants, and the third a wealthy commuter area on the outskirts of London.

The statistics provided are helpful. For instance, the manner in which people discovered that their homes had been burglarized is recapitulated. He points out that 78 percent had been away from their home when the burglar entered the house, 16 percent had been asleep in bed and the remainder had been present and awake. Only 13 (4 percent) came face to face with the intruder and for the most part, such confrontations were brief and non-violent. Of those who either returned home (most commonly in the early evening) or came downstairs to discover that they had been burgled, the majority first noticed not, as one might expect, drawers turned out and property scattered about the floor, but simply one or two minor changes in the appearance of the house. Open or broken windows were the most frequent first signs seen, other typical indications being ornaments dropped or knocked over, cupboard drawers or doors opened, or items moved to different places in the room.

The author presents tables which reflect the interviewee's assessment of impressions or reactions. The initial impact on an individual is recorded and the most common reaction was one of anger or annoyance. More women than men reacted with shock, fear, or upset feelings, while the most frequent male response was one of anger. The frequent utilization of victims' quotes in the article is helpful in describing the particular reaction felt. Table two specifically asks the question, "What was the worst

thing about the burglary?" and the answer in 60 percent of the cases selected either "intrusion on their privacy" or generally "emotional upset" as the worst element. The author states that this finding underlines the point that the emotional impact of burglary may be more important to victims than financial loss. He further states that the current study suggests that at least where burglary is concerned, the emphasis would be placed more appropriately upon the alleviation of psychological effects.

The author states that a burglary is a significant event in the lives of a considerable proportion of victims. Almost all of those interviewed had a clear memory of the reactions on discovering that their house had been entered. There are some lasting implications and one impression received was of people struggling to recapture a lost sense of security. Mr. Maguire also raises questions regarding the problem of anxiety caused by the threat posed by burglars and some methods to alleviate this anxiety. He points out that help could be augmented by victim support schemes but that the question of finances and resources may ultimately decide the issue. He feels that it is arguable whether or not public funds can be spared to develop support schemes and whether police administrators believe that too much time is already allocated to visits to the scenes of relatively minor crime. Nevertheless, the damage done over the long term by the insecurity and mistrust of others that burglary fosters and by the sense of having been "short changed" by casual, unsympathetic response by the police seems, from the results of this study, to deserve serious consideration.

"Offenses and Offenders in Football Crowd Disorders," by Eugene Trivizas, Attorney at Law and Lecturer in Criminology and Penology at the University of Reading (July 1990). While the subject of football crowd disorders has attracted much attention in recent years and much has been written on the subject, there is lack of objective data in the literature regarding the criminological aspects of the problem. Most of the various studies usually only give impressionistic count of offenses and offenders. Statistics and hard data may be available but not in a readily accessible or systematized form. The author points out that if society is to deal effectively with the problem of "football hooliganism," more definite information must be secured. His paper reports on a research project carried out with the following objectives: (1) To ascertain for what offenses arrests are made in a football crowd event. (2) To examine the characteristics of the offenders. (3) To compare them with the characteristics of offenders arrested for the same kind of offenses in situations other than football matches.

A number of theoretical perspectives and popular stereotypes on "football hooliganism" are discussed in the light of the finding of the study.

The criminal records of offenders are studied and the data are presented in a number of tables available for comparison purposes. "Football hooliganism" is associated in the popular imagination with vandalism. Over 80 percent of the public relates "hooliganism" to vandalism generally and that this stereotype of "football hooliganism" is by no means restricted to the press and to the popular imagination. This study indicates that the great majority of offenses (more than 67 percent) for which arrests are made in football crowds, and which are officially classified as "football hooliganism," are offenses of threatening or assaulting behavior. The relative frequency of offenses of criminal damage is only 3.7 percent of the total. The view that "football hooliganism" is an exclusively male and working class phenomenon is supported by the results of the research. It is a commonly felt belief that the typical "football hooligan" is a juvenile, however according to the findings of this study, 82 percent of the persons arrested in football crowds were adults. One reason why police officers arrest adults more readily than juveniles may be that they find abusive behavior on the part of adults more offensive and more threatening than the same behavior by juveniles.

In summary, the author makes three main points:

(1) The use of threatening or abusive or insulting words or behavior with intent to cause a breach of the peace, or whereby a

breach of the peace may be occasioned, was the most common offense for which arrests were made in football crowd disorders. Nearly all offenses were committed by males. The mean average age of those arrested was 19 years. More than two-thirds of the offenses were committed by manual workers. The majority of the offenses were committed by persons without previous convictions.

(2) According to the findings of this study, the commonly held stereotypes concerning "football hooliganism" and "football hooligans" do not coincide with police statistics. That means that either: (a) The stereotypes are wrong or (b) arrests for the typical offense and of the typical offender are not made by the police.

(3) The findings of this research give some support to the hypothesis that people in crowds commit offenses that they would never do as individuals and support the theories that see crowd phenomena as having an internal order.

CANADIAN JOURNAL OF CRIMINOLOGY

Reviewed by VERNON FOX

"Violence In, Violence Out: Child Abuse and Self-Mutilation in Adolescent Offenders," by R. R. Ross (July 1990). The link between experiencing violence in childhood and the expression of violence in later life has been frequently reported in the literature. Another link is suggested between child abuse in early life followed by self-mutilation in adolescence. On the basis of interviews with 120 girls in an Ontario training school, who represented a selective group of serious behavior problems, the link between child abuse and self-mutilation was supported. The explanations of this link lie in (1) social learning in that self-mutilation involves stimulation, attention, and contact with others, (2) avoidance conditioning, which involves self-mutilation to avoid physical abuse by parents, (3) insensitivity to pain developed by frequent exposure to pain and/or parental threats like, "Stop crying or I will give you something to cry about!" The evidence suggests that childhood exposure to violence can be linked to a complex nexus of interconnected links with a wide variety of behavioral/social problems.

"Transition statutaire et delinquance," by Louise Pronovost and Marc LeBlanc (July 1990). The transition from school work status frequently has traumatic and disturbing results on early school dropouts. Compulsory education laws in Quebec require school attendance until 15 years of age. Self-administered questionnaires were given to 825 boys and girls in Montreal schools between 12 and 18 years of age in 1974. The questions were about their families, their academic environment, social environment, leisure time, friends, and information about delinquent behavior. It was given a second time in 1976 for purposes of followup. A comparison between students and dropouts indicates that delinquency and social maladjustment was high among dropouts during the transition from school to work, but lessened as the dropouts became identified as "workers." The conclusion was that early dropping out of school to go to work actually reduces delinquency in late adolescence after the dropouts have achieved the status of workers.

"Historical Perspectives on the Federal-Provincial Split in Jurisdiction in Corrections," by H. G. Needham (July 1990). The 2-year split in jurisdiction of corrections in Canada as Federal or Provincial—in that persons serving more than 2 years would be under Federal jurisdiction, while Provincial facilities would hold shorter terms—had its beginning before the middle of the 19th century. It has been supported by the British North America Act and subsequent legislation. The first challenge was made in the inter-provincial conference in 1887, called by Hon. Honore Mercier, Premier of Quebec. The next major challenge was in the Archaubeault Report of 1938, which had as its objectives (a) improvement of conditions in institutions and (b) making rehabilitation a primary concern. The Fautoux Report of 1966

was the next challenge and the abandonment of retribution in favor of rehabilitation was emphasized and called for a 6-month split. The Ouimet Report of 1969 presented several alternatives, emphasizing the geographical concerns and that rehabilitation is better done in the community. The Ouimet Report held that female offenders should be handled by the provinces or, at least, regionally. The more recent and current Law Reform Commission has moved toward a *de facto* Federal takeover of institutions and increased community alternatives. The conclusions drawn by history is that there is no single answer to correctional jurisdiction that would satisfy everybody and that financial questions remain a central concern.

"Prevention Programs and Their Evaluation," by Andre Normandeau and Burkhard Hasenpusch (July 1980). Prevention programs are so heterogeneous and pervasive of all society that their identification and evaluation is most elusive. They range from all the socialization processes in society, including education, religious training, child guidance and mental health clinics, school social work, and similar services; to the physical environment like technical security and locks, police patrols, neighborhood watches, street lighting, architectural design, and other physical and technical approaches to crime prevention; to the criminal justice system, itself, where the juvenile court, probation, institutions, and parole agencies attempt to rehabilitate the offender so that he will not repeat offenses. This raises two problems, (1) the quest for causes of crime has been generally unsuccessful, and (2) the classical concept of one-way cause-and-effect relationships may be less applicable than more complex and dynamic systems to explain crime. Any evaluation of the impact of prevention programs must include (1) relevance of the factors involved for decisionmaking to avoid rhetorical exercise, (2) timeliness and making decisions on data immediately available, rather than waiting until it is too late, (3) accessibility and intelligibility that makes teamwork possible, and (4) efficiency to avoid reaching the point of diminishing returns in cost-flow without impact. The political criteria of necessity, desirability, and feasibility must meet the values of political leaders, administrators, and the public. To say that "more research is needed" is frequently an excuse for inaction well known in political and some academic circles. All evaluations of prevention programs should be published, abstracted, and made available upon request to enhance their usefulness.

"Interpersonal Skill Training for Young Adult Prisoners," by Wendy J. Daigle-Zinn and D. A. Andrews (July 1980). Interpersonal functioning has been related to criminal behavior, so the study of short-term counseling, attitudinal construct corresponding to facilitative interpersonal behavior, and self-esteem became central to this study. Originally, 43 clients were selected from two institutions sharing common location and administration, one accepting male first incarcerates between the ages of 16 and 21 and the other accepting male repeaters in the 18-23 age range. They were begun in programs of Role-Playing, Didactic-Discussion, and Irrelevant-Content Control, with attitudes toward self and other, self-esteem, and ratings of interpersonal adjustment measured 1 to 2 weeks before treatment and at the end of the first and fifth weeks after treatment. Because of parole and other releases, only 15 of the original group were analyzed for attitudes and 12 were analyzed for the behavior ratings. Role-playing was most effective in both groups, first incarcerates and repeaters, with didactic-discussion seen as a useful adjunct. Acceptance of others comes after self-esteem and acceptance of self. All approaches appear to be mutually reinforcing, but an adequate testing of role-playing would have to be subjected to a component analysis in which the modelling, rehearsal, and corrective-action elements could be examined in isolation.

"Predicting Recidivism with Social History Information and a Comparison of Their Predictive Power with Psychometric Variables," by Paul Gendreau, Patrick G. Madden, and Mary Leipziger (July 1980). The Ontario Ministry of Correctional Services field psychologists and the Planning and Research Branch of that

Ministry have recently been involved in assessments of the provincial corrections system. The prediction and measurement of recidivism has been of central concern. A sample of 902 consecutive admissions to the Guelph Correctional Centre during 1970-1972 was interviewed intensively to acquire extensive social history data and were given extensive psychometric tests that included the MMPI and 14 experimental scales. The social history variables were found to predict recidivism significantly, accounting for 20 percent of the variance. The psychometric data were far inferior to the social history data in predicting recidivism. The combination of social history data and psychometric data improved the predictive ability of the social history variables. Future studies that might include institutional behavior and tests to measure situational behaviors may improve even more the capability of predicting recidivism.

"The Forensic Psychiatrist - A Contemporary View," by Anthony M. Marcus (July 1980). Forensic psychiatry is concerned with the behavior of man and the law. Psychiatric opinion may be sought at any point in the continuum of the criminal justice process. Rather than having some of the finest minds locked in adversary squabbles, the psychiatrist should be engaged in the total assessment of an individual in what could be a placement and rehabilitation panel. He should also be involved in updating the criminal law and procedure with increased knowledge of behavior. Needs in the near future range from services for the aggressive and hard-core delinquent to problems of the aggressive sociopath and inadequate antisocial misfit. Central is the need to reaffirm in statute man's uniqueness in this alienating and ever-proliferating technology.

"Employer Stigmatization of Ex-Offenders and Pardon Under the Criminal Records Act," by R. Paul Davis (July 1980). This study is an attempt to quantify stigmatization arising from criminal record prejudice among employers in the Halifax-Dartmouth-Bedford ("Metro") region of Nova Scotia, including attitudes and practice toward the "pardon" granted under the *Criminal Records Act of 1970*, which was designed to mitigate the stigma of conviction. An initial pilot survey was sent to 30 employers, to which 18 responded. On the basis of the information received, a new questionnaire was developed and sent to 200 employers taken from the "yellow pages" of the telephone directory. The 74 responses revealed a wide variation in company practices toward employment of ex-offenders. All companies except six thought that a conviction might be of some consequence. It appeared that the best aid to an ex-offender would be total concealment of his criminal record. The fact that some personnel managers had never heard of the *Criminal Records Act* points up the need for an educational campaign by the National Parole Board.

"Native Attitudes Toward the Police," by Douglas Skoog, Lance W. Roberts, and Edvard D. Boldt (July 1980). Native people are overrepresented in all criminal justice statistics in Canada. They have uniformly low social status in comparison with the whites. The Pas, 500 miles Northwest of Winnipeg, have some natives whose incomes and life style are based on hunting and trapping, while others have opted for wage employment in the large pulp and paper complex. Norway House on the Northern tip of Lake Winnipeg is isolated and is one of the most traditional native settlements in Manitoba. Samples of whites and natives were selected from Winnipeg, The Pas, and Norway House. Native interviewers were used for the native samples, while white interviewers were used for the white samples. Consistently, large differences between the attitudes of natives and whites toward police appear on 11 questions asked by the interviewers. Although the natives have less favorable attitudes toward police, they are not unfavorable as a group. The extremely favorable attitudes by the whites contribute to the significant differences. Attempts to correlate age, sex, location, and socioeconomic status with native responses yielded insignificant results, suggesting that native attitudes toward police exist in a complex interactive network that requires more investigation.

PROBATION JOURNAL (England)

Reviewed by HAROLD W. KELTON

"Short, Sharp and Only a Little Bit Shocking," by Sheila Fisher, Eric Gibbs, Andy Hutchinson, Chris Johnson, Trevor Lindsay, Rob Voakes, and Ann White (March 1980). Six officers, interested in a "change," establish a Juvenile Unit where the caseload is shared, where the six officers become individual specialists in some treatment device or phase, and where they meet regularly to share administration of the unit and plan its activities. They found that time spent on planning was an essential investment. These planning meetings must take place periodically and must result in the creation of policy. Resistance to the "new program" was anticipated and overcome by role-playing its presentation in advance of the actual event. Failure was avoided by consulting members of similar projects about their experiences. Actual movement on the project was effected through the use of "limited pilot schemes."

"A Study of Some Adolescent Groups in the Probation Service," by Jim Leivers (March 1980). Juvenile offenders, in Britain, may be required as a condition of probation to become members of a group organized around some recreational activities. This sometimes appears far removed from the "social control" mission of the criminal justice system and uncertainty arises as to its real purpose and effectiveness. Leivers studied eight groups by means of survey and personal observations and came to some conclusions regarding those groups that could claim "success"—a successful group being defined as one that was enjoyable, met its "perceived" purpose, and met individual needs. When a program incorporates formal client discussions, a clear purpose shared by leaders and members, where there are admission procedures and attendance requirements and where the members are all the same age category and are youthful, there is the probability of "success."

"Pre-trial Social Inquiry Reports on Defendants Pleading Not Guilty: Are They Acceptable?" by Jean Trepanier (March 1980). Social inquiry reports (presentence reports) are prepared in Britain "as a general practice" before an adjudication of guilt. It is Trepanier's view that this should be abolished as being wasteful, inaccurate, and prejudicial. It is obvious that much waste of effort and resources occurs when reports are prepared on defendants who are ultimately determined not guilty. More serious, however, is Trepanier's suggestion that an adjudication of guilty is more likely to come about where the court has read beforehand a social report. She is saying, in other words, that a presumption of guilt creeps in if a report is prepared. Finally, the initial charge filed against a defendant often differs significantly from the charge of conviction. It is another proposition of Trepanier that the charge controls the thrust of a probation officer's investigation and analysis and so reports prepared in the light of the original charge and not modified following reduction of that charge may lead the court to somewhat irrelevant sentence.

Notes and references provided.

"Alcoholism: An Appropriate Response?" by Malcolm J. Smith (March 1980). There is a high correlation between alcoholism and various types of crime. This is a traditional belief but substantiated by objective inquiries. Unfortunately, strategic assumptions have evolved that tend to immobilize effective measures to deal with the problem. These assumptions lead probation officers to do such things as abandon further effort if Alcoholics Anonymous does not work and to set perhaps unrealistic goals such as total sobriety. In Smith's words the issue is thus "fudged." A plain, directive approach, he says, can bring dramatic results. An alcohol abuser, placed on probation, with a condition calling for twice weekly attendance at group meetings, can be given awareness of his problem and improved social functioning. The group provides both treatment and relaxation.

"Adult Probation Hostels: A View From the Field," by Roy Fisher, Chas. Wilson, and Otto Germann (March 1980). Probation

officers in a particular geographic area were surveyed to determine why they made referrals to two existing hostels (halfway houses) and what they thought hostel programs should be providing. Very generally, probation officers use hostels either as an alternative to prison or as an alternative to probation. In a real sense, then, hostels are "halfway" places. What probation officers would like to see are more hostels with a wide range of program objectives. While the practical and financial problems with this are obvious there are theoretical problems that are more subtle. One popular idea, for instance, is that hostel programs could be designed around offender typologies. Anyone who has ever attempted precise and valid offender classification is aware of the problem in this.

Notes are included.

AMERICAN JOURNAL OF ORTHOPSYCHIATRY

Reviewed by CHARLES E. SMITH, M.D.

"Accountability: Human and Political Dimensions," by Ian Alger, M.D. (July 1980). In this presidential address to the 1980 Annual Meeting of the American Orthopsychiatric Association, the author equates accountability with responsibility. He points out that accountability involves factors such as "quality care," "quality assurance," and cost effectiveness. He suggests that the concept of accountability is vulnerable to serious abuse, particularly in the mental health field. Dr. Alger is concerned that with "society in crisis" and with social systems becoming increasingly complex, it is difficult if not impossible to demonstrate the cause and effect relationships in the mental health field which "accountability" requires.

On the positive side, the author points out that human systems thrive on change as well as risk-taking, often in situations which cannot be fully justified against every possible challenge of accountability. In this vein the author urges mental health workers to continue to "be open and to explore and to embrace an accountability that enhances and celebrates growth and human creativity and compassion."

"Law and Mental Health: Distrust, Excessive Expectations, and the Battle for Human Welfare," by Honorable Justine Wise Polier (July 1980). Judge Polier traces the course of the relationship of law and mental health during this century and finds that it has had its ups and downs. These trends range from the ascendancy of the juvenile court movement with its invasion of mental health experts in the 1930's to the disillusionment with the medical model in mental health services which began with the Civil Rights movement in the 1960's. During the 1970's tensions between law and mental health have persisted along with a steady decline in mental health services.

Judge Polier reviews several recent Federal court decisions to illustrate her view that the courts are not resolving problems of inadequate services and treatment resources but instead are substituting "due process palliatives" for substantive rights. She feels that we are due for a "turn around" and urges that law and mental health "enlarge their targets to embrace affirmative action in social welfare, in health, in education, as well as in civil rights, so as to enhance the human condition."

"Confidentiality of Health Records: A Symposium on Current Issues, Opportunities, and Unfinished Business," including papers by Herman Schuchman, M.S.W., by Sandra G. Nye, J.D., M.S.W., Lella M. Foster, M.D., Ph.D., Robert B. Lanman, & David J. Popiel (October 1980). This comprehensive symposium deals with a variety of issues and problems relating to the protection of the confidentiality of health records. The fact that health records contain very private information about individuals has dictated the need for safeguards. These safeguards, which were originally stated in ethical codes for health care practitioners have more recently been set down in elaborate Federal regulations and statutes which define requirements for recordkeeping, including the areas of record content, record sharing, consumer access, informed consent, records of minors, privilege, and requirements

for compulsory reporting. A second order of problems has arisen in the matter of reconciling state regulations and statutes with Federal guidelines. These articles discuss many of the dilemmas which arise in the course of our efforts to prevent the misuse of private health information at a time when health records are being opened up to increasing numbers of individuals and agencies, not engaged in providing direct services to consumers, but

nevertheless having some need for access to the record to fulfil some social function for the individual concerned. Among the more difficult unresolved issues in this area is the question of determining when the requirements of public safety and interests of the judicial process must override the interests of personal privacy. Considerations of this kind become increasingly important when they impact on access to health care.

Your Bookshelf on Review

EDITED BY BENJAMIN FRANK, PH.D.

Guidelines for a Probation Service

Probation Standards, 1st Edition. By Chief Probation Officers of California. San Bernardino, California, 1980. Pp. 189. \$10.00. Copies: Chief Probation Officer, P.O. Box 1555, Yuba City, California 95991.

This unique document should be on the desk of every chief criminal court judge, probation administrator, court budget officer, and professional organization of probation officers. Representing over 2 years of work by the Chief Probation Officers of California, the professional association for County Probation Officers, this document presents the first and most comprehensive set of probation standards in the United States. Generated from within the profession itself and an outgrowth of the continuing thrust towards the professionalization of probation services, this will be a primary source book for years to come. Although these *Probation Standards* project goals for present and future professional delivery of services in the State of California, the impact of this formulation will be felt far beyond the borders of that State. For decades the professionals in the field have been so absorbed in their work, they lacked the organization and the luxury of time to produce guidelines such as this. The resulting lack of a definitive statement of purpose and objectives has over the years created a vacuum often filled in by lawyers, legislators, academics, and well meaning citizens. The results have been as often as not guidelines that were confused and contradictory, misleading and overly broad notions of the function of probation services and role conflicts galore for those engaged in probation work.

The professionals themselves have now spoken out concerning their goals and objectives. A department measured by such standards as herein outlined will be found efficient, and cost-effective because the objectives are attainable and field practice oriented. The *Probation Standards* are means to practical and achievable goals of future development as well as measures by which evaluations of probation services can be made. Wide adoption of such standards will deliver better probation services in a more professional manner anywhere in the country.

The stated purposes of the *Probation Standards* are the definition of the purpose and philosophy of probation as the major correctional component of the Criminal Justice System; the promotion of public protection through crime prevention and control; the delivery of a wide range of services to the improvement of offenders and the community; and the establishment of criteria to ensure adequate quantity and quality of services to meet the needs of the community in coping with criminal and delinquent behavior patterns.

The resulting document sets standards under the general categories of Probation Organization, Juvenile Court Probation Administration, Adult Probation Services, Juvenile Probation Services, Secure and Non-Secure Juvenile Institutions, and

Abuse and Neglect. The range of services covered is of particular value to probation departments that are planning and/or expanding probation services. Standards that require legislative amendment for their implementation in California are clearly delineated.

The *Probation Standards* are wide ranging but always reflect the input of practicing probation officers. The support of pretrial diversion and pretrial release for adults is urged, the latter "most appropriately administered by probation officers." The appointment of legal counsel for chief probation officers is recommended. Limitations of supervision responsibility are discussed. Staff qualifications, staff training, detention facilities, grievance procedures and numerous other facets of the probation officer's job are examined and "standardized." Truly a monumental "first," this pace setting book deserves wide circulation in the profession.

Brooklyn, N.Y.

JAMES F. HARAN

Penal Philosophy and Correctional Practice

Corrections: Treatment and Philosophy. By Louis P. Carney. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1980. Pp. 352. \$14.95.

Louis Carney has produced a comprehensive and well organized book which covers the gamut of penal philosophies and the wide range of theories concerning the causes of crime. As such the book serves as a very useful introductory text to many aspects of corrections, and to criminology generally.

The great difficulty with any general text such as this is to avoid superficiality, yet at the same time maintain a level of exposition that is clear and explicit. In general, Carney manages this, with only occasional lapses, and these mainly when he recounts elements of theories which he does not like. Freudian theory bears the brunt of such criticism, as when Freud is characterized as having "accused" women of penis envy.

The overriding theme in the book is that there is, or at least has to be somewhere, a middle ground between two extremes: the one of "lock them up and throw away the key" and the other variously described as the "psychomedical complex." The theoretical and empirical problems that lay under this polarity Carney recognizes as intractable, but pleads for a "balanced but rational philosophy." He clearly identifies these problems: the age old debate over determinism and free will; the vagaries of the criminal justice system, and many more.

The final chapter is the most interesting where he notes the most serious problem of all: The "mood of an uninformed public can be the biggest barrier to progress in criminal justice reform." This is a provocative and interesting observation, and belies Carney's bias in favor of the educated criminal justician—the happy belief that it's education that counts. Unfortunately, the question is not quite so simple, since those with

some acquaintance with the history of penal practices and philosophy are aware that many so-called reforms advanced by well meaning educated reformers have turned into their own kinds of nightmares. Whether or not these well meaning reforms have been railroaded by an uninformed public, or perhaps a public that demands more punishment than reformers are prepared to dish out, is a matter that awaits investigation. Whether or not the public knows better what it wants for its criminals than does its educated criminologists is also a matter for conjecture. Has the rise of criminology and penology as an academic enterprise had such an effect on the "progress" of criminal justice reform? Has the effect been a conservative effect or a progressive effect? Again, these questions await research by historians. Certainly, those who have born the brunt of the various developments in penology in the last hundred years or so could be hardly expected to feel that the actions and influences of our better informed criminologists have been anything other than conservative: I speak here, of course, of the minority groups whose ranks swell our prisons (e.g., something like 80 percent of New York's prisoners are black or hispanic).

Which leads to one all too obvious blindness in this book: its failure to note this empirical fact, in an otherwise highly comprehensive survey of corrections research. Why? Surely the incredible overrepresentation of blacks and other minorities in prisons is the most overbearing "fact" in the whole of corrections research, and should take primacy over the usual recitations of various treatment modes, research on their effectiveness, and the pleas for "differential treatment." Especially the latter which searches for differences which are hardly apparent, ignoring the most obvious differential which is that of race.

But enough. An introductory text could not be expected to take up such issues or take them very far anyway. One cannot ask for much more in an introductory text. The book is eminently readable, nicely designed and presented. Carney is even handed in discussing sensitive issues; intersperses his exposition with didactic anecdotes (some funny, some horrendous). All in all, it is as good a book as this kind of book could be.

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GRAEME R. NEWMAN

Community Corrections: Policy and Practice

Probation, Parole, and Community Field Services: Policy, Structure, and Process. By Frederick A. Hussey and David E. Duffee. New York: Harper and Row, Publishers, 1980. Pp. 350.

As someone who has been close to correctional practice since the 1940's, I have tended to shy away from correctional textbooks. Often they seemed very remote from the realities I was experiencing. I am glad to report that this book, clearly designed for sociology students, could be as interesting and useful to practitioners at all levels as it undoubtedly will be for students in the academic setting.

Do not be put off by the fact that the framework of reasoning used in the book is sociological. The concepts are introduced, not as jargon, but as clearly defined tools for orderly analysis. Because this framework is equally useful for understanding any service organization, the student learns much about his society while also learning to perceive the correctional system as one of a variety of systems designed to solve the problems generated by this society. In this process the links of the field services to other aspects of the community as well as to correctional institutions and criminal justice agencies become evident. This presentation of probation and parole as it functions in the real world is not just a description. Rather it is an analysis designed to engage students in thinking about the important issues in correctional practice.

Especially to be commended is the ability of these authors to

combine sociological analysis with a realistic presentation of field service practice at each level, whether the concern is with policy, with administrative and organizational issues, or with the daily work of the probation or parole officer. Perhaps the weakest point in terms of generating a sense of "actually being there" is seen in the chapter on individualized treatments in probation and parole. Here the authors limit themselves to reporting the few "therapies" accepted by parts of the field and rarely seen fully developed in practice. They seem to overlook the fact that in most field practice the individualized helping that does occur, perhaps more frequently than the pundits acknowledge, follows more what I call the "natural processes of helping" than any recognized therapeutic formula. Respect, kindness and attention; what the parolees call "treating me like a man"; sharing "know how" and information; suggesting that hope and change are possible; all can be offered whenever people interact even briefly; and they often constitute the real dynamics of whatever helping occurs under one of the labelled therapies. Outside of this one reservation, the book is admirably realistic in its discussion of the complications and frustrations characteristic of every level of practice in corrections. Every field officer who reads chapter 13, "The Client-Officer System," will respond with a sense of having certain key anomalies in his work understood and presented fairly.

Furthermore, the authors apply the process of analysis to all the major current controversies in the correctional scene. Their own predilections are made clear, but the emphasis is on helping the reader to think through the issues with attention to both the logic of ideas and to the practical obstacles and possibilities. The authors are at their best in analysis, breaking new ground in chapter 14 where they examine the correctional field services in the context of the wider community service system; and chapter 15 which focusses on correctional goals and effectiveness. Not always do they tackle the most profound value issues, e.g., the tendency in diversion programs to bring new troublesome, but not criminal, populations under a correctional kind of supervision (p. 275). On the whole, however, their surveys of the pros and cons of the current correctional dialogue are judicious, fair, and comprehensive.

A glossary of correctional terms is provided in the appendix which should be useful to students new to the field. This reader would have welcomed a basic bibliography, since the notes at the end of each chapter are rather skimpy. In fact the text is both rich and contemporary enough to have warranted an annotated bibliography. A bit more care should be taken in future editions to distinguish the work of other authors from the reformulations that fit the authors' own argument. (See Merton's five fold typology of individual adaptations, p.12; and Studt three models for the helping relationship, p. 302.)

The correctional field should welcome this book as a harbinger of a new level of publication in criminology. As a relatively easy to read, intellectually respectable and thoroughly realistic textbook, it should be read by all practitioners who want to bring themselves up to date on the correctional field services as they are today.

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ELLIOT STUDDT

Criminology: The Quick Way

The Evolution of Criminology. By William V. Pelfrey. Cincinnati: Anderson Publishing Company, 1980. Pp. 98.

Criminology is a rich, variegated literature that is not confined to one discipline, but includes work from economics, sociology, psychology, political science, and even history. This small book attempts to provide an outline of criminological thought from the 18th century to the present—all in less than 100 pages. It can't be done.

The content of the book is contained in three substantive chapters (there are also ten pages of references, and seven pages of index). The first chapter deals with the "progression" of criminological thought from Hobbs, the school of criminal anthropology, and comments about the functionalist and conflict perspectives on crime. The second chapter, titled "Early Criminological Theories," discusses biological, psychological, and sociological theories. The final chapter, titled "The New Criminology: A Review of the Literature," provides commentary and evaluation of more recent ideas on crime, dividing the material into sections on conflict, radical, and Marxist criminology.

Such an ambitious undertaking leads inevitably to a predictable outcome: superficiality. Pelfrey's account of criminological thought frustrates, annoys, and leaves one unsettled about the major contours of the field. Many theories are discussed in one paragraph. We are told that, "It is not within the purview of this discussion to debate the merits or demerits of Sutherland's theory, but simply to briefly explain the major points of the theory to show its contribution to the evolution of criminology" (p. 46). Yet, the "major points of the theory" are mentioned—not at all discussed—in a scant five paragraphs, the same amount of space as that devoted to labeling theory. Surely, this is not a leisurely examination of criminological thought, but a crash course on names, dates, and "major points."

Any account that presumes to sketch, however briefly, the "evolution" of a discipline must demonstrate that the discipline had indeed *evolved*; that is, what is required is evidence that earlier views are somehow related to subsequent ones, and that the nature of the latter views are the way they are *because* of the earlier views. Such a progression can take place in at least two ways: (1) earlier ideas are found to be similar theoretically to subsequent ones; or (2) subsequent ideas are purposefully different from earlier ones because the earlier ideas are discredited (e.g., from empirical research), or unappealing (e.g., from changing political climates).

Pelfrey's book adopts neither of these courses. He lists a string of theories and ideas, but devotes no attention to the manner in which they are related to one another or to subsequent theories, except for a rather mundane observation that the focus of criminology has changed from a concern over the act (*Beccaria*) to the actor (*positivism*) and more recently to the criminal justice system and society in general (p. 51). This is hardly a sophisticated insight, and it actually does an injustice to the history of criminology. There is just more to it than this. The book is little more than a literature review, and a too brief one at that.

Washington State University

ROBERT F. MEIER

Birth of the Public Defender Concept

In Defense Of Whom? A Critique of Criminal Justice Reform. By Gregg Barak. Cincinnati, Ohio: Anderson Publishing Company, 1980. Pp. 138. \$8.95.

This short account of a significant reform movement is literally packed with facts and comes across with a wallop. It probes behind the scenes to describe the painful struggle against strong opponents who fought the public defender concept in words and deeds. The author drills away at piles of heavy evidence for each statement and scholarly traces the roots of all issues. This method provides a stern antidote for those whose rhetoric towards reform is bloated, watery, and often fictitious.

The entire body of law—structure, personnel, spirit, operations, scope—is closely measured in relationship to the network of established social, political, and economic policies sanctioned by those who control power and resources in society-at-large. Dr. Barak indicates that changes in various legal processes have been at a glacial rate in America. Various types of legal assistance to the rootless, minorities, and those without

resources are detailed and X-rayed. Each form had opponents and advocates who engaged in verbal tugs-of-war on the need to stand still or move ahead. The development of a public defender idea symbolized the modest change in the criminal justice machinery by increased attention paid to the underclass in need of allies to bolster their weakness and powerlessness.

At times the reform process can be compared to the rearrangement of deck chairs on the Titanic rather than manning the lifeboats to save survivors. The author resembles a plodding beaver in building a dam as he takes the reader, slowly yet securely, through the cross-currents and bumpy passages of stop-and-go forces which either encouraged or blocked true reform. The gap between promise and performance was large and costly. Various lessons for the changemakers, in the entire criminal justice process, are contained in this narrative, both stated and implied. One inquiry remains as a common denominator: How much is each life worth as measured by the overall criminal justice apparatus? Besides, the author raises other philosophical issues ranging from the dimensions of lawyers' commitments to the essence of the American dream.

This book leaves one with more hope than despair and combines dosages of stern pragmatism with eloquent philosophic passages. Reform needs more than passion and prayers; it comes from hard, steady work at the hands of realists who move towards their goals, inch by inch, without loss of purpose or dignity. The book fills a real gap in the literature of reform. It is required reading for amateurs in the class room and veterans on the frontlines interested in true justice for all.

Long Island University

R. J. NOVOGROD

Maintenance of the Status Quo

Correctional Management. By David Duffee. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1980. Pp. 407. \$16.95.

The author, assisted by 11 co-authors, essentially describes for us a nonsystem of goals, policies, managerial styles, and constraints, so much in conflict—endogenic and exogenic, manifest and latent—that it actually does more to reinforce the crime problem than it does to induce the kinds of individual and collective changes necessary to solve it.

Instead of explaining the system's failure to achieve its official rehabilitative goals by the popular reference to its internal chaos, incompetency, and ennui, the author believes that one has to look outside the system *per se*, into society at large. Responding to the insight that failure to achieve an advertized goal may be compatible with the success of some clandestine goal, the author assigns the correctional system a role analogous to that of an unknowing Ian Fleming secret agent to whom *Control* has provided erroneous information regarding the allied invasion plans and dropped behind enemy lines with his capture prearranged—complete with cyanide pill made out of sugar. Although the naive agent does his patriotic best to successfully hold his mud, he has actually been designed to *convincingly fail*, thereby succeeding in *Control's* misdirection of enemy forces.

The role of *Control* in the criminal justice system intrigue is played by the dominant culture with its vested interest in maintaining the class status quo and the traditional differential distribution of social rewards. The conclusion, then, seems to be that the correctional system, with all its apparent failure, actually functions to successfully maintain customary patterns of distributive justice.

Presumably because of growing recognition of this paradoxical role, the author indicates that in addition to conflict paradigms gaining ascendancy over functional paradigms, correctional policies more consistent with the former are also gaining ascendancy. He supports this by reviewing the works of Fogel, Van den Haag, and others who argue for the honesty and efficacy of restraint, retribution oriented approaches over the hypocrisy and failure of rehabilitation, treatment oriented

responses. Stated simply, correctional critics, with their new-found insight into the functional role corrections actually plays in the capitalistic con, seem to be saying, *let's just get on with the business of retributive justice without the embarrassment of the treatment smoke-screen.*

The author should be applauded for the courage and integrity reflected by his voicing this position, obviously knowing that none would come from a system devoid of such qualities. Perhaps such knowledge unconsciously conditioned him to only *whisper* his heretical message, rather than shout it from the rooftops. That is to suggest that he failed to provide the somewhat elaborate theoretical context that is required to convincingly move from the fact that two things are related by their inverse effects, to the proposition that they are functionally related. Had he bolstered his very important conclusions by elucidating the kind of conceptual framework already provided by the Chambliss/Mankoff genre, they would have been more impressive and difficult to resist.

It is also regrettable that although he spent considerable time discussing key concepts such as *treatment, rehabilitation, punishment, constraint*, and the alleged *needs of the offender/needs of the community* conflict, he never really demonstrated the *logic* of such concepts, being content to use the *in situ* and the leave them in the tangled, conceptual muddle in which he found them.

On balance, the author does a good job of achieving his stated goal of *exploring how management in corrections is currently carried out*, although his seductive explanatory hypothesis remains incomplete.

Since the reviewer believes that the author's second stated goal, *how management in corrections can be improved*, should have been deleted, the review of his research efforts in this direction in two institutions, will also be deleted. This is not to imply that he did not accomplish his goal. On the contrary (utilizing some of the techniques of analysis learned from the author), he informs us that he completed his dissertation based on this research, acquired his first professional role, and began his research career: all admirable operational goals. Although the correctional system he has analyzed for us may well be *pattern maintaining*, one suspects (and hopes) that his act of analysis will be *change-inducing*. Given his knowledge of the system, he must know that that will be the only *payoff* his book will yield.

Los Angeles, Calif.

DONALD HARTLEY

Sentencing Guidelines

Prescription for Justice: The Theory and Practice of Sentencing Guidelines. By Jack M. Kress. Cambridge, Massachusetts: Ballinger Publishing Co., 1980. Pp. 357. \$25.00.

Professor Kress was a codirector of the sentencing guidelines "feasibility study" conducted by the Criminal Justice Research Center under LEAA sponsorship from 1974 to 1976, and was director of the guidelines implementation project that followed. In this book, he undertakes to justify the guidelines concept, describe the development of guidelines in a number of jurisdictions, and examine a number of issues about the specific content of sentencing guidelines. According to the preface, the anticipated audience for the book is "the educated layperson"—primarily judges, legislators, and criminal justice agency personnel who are not trained in statistics.

Educated laypeople who intend to read the book should begin with a caution: The statistical methodology used in the guidelines projects of the Criminal Justice Research Center is unsound. In the March 1979 issue of *FEDERAL PROBATION*, Michael Leavitt and I pointed out that there is no logical basis for the researchers' claim that predictive equations of the type generated in the research are mathematical expressions of hitherto unarticulated sentencing criteria. More recently, after

an exhaustive study of the guidelines projects, a team from the National Center for State Courts concluded in a scathing report—for our reason and many others—that "the sentencing guidelines developed by the CJRC researchers have no legitimate empirical basis."

It may nevertheless be the case that sentencing guidelines are a "prescription for justice." Guidelines expressing policies for sentencing in the future can, after all, be formulated without employing statistical analysis of past decisions. Therefore, much of what Professor Kress has to say in the book does not stand or fall with the research methodology of the projects he describes; it deserves independent consideration on its merits.

Kress makes many points with which I find it easy to agree. In particular, he argues the need for retaining a heavy element of discretion in sentencing even as our society moves toward the development of standards for sentence decisions. Much of the so-called "sentencing reform" of the last several years has involved a radical shift from nearly unconstrained judicial discretion to nearly nonexistent discretion. In California, the sentencing judge has been all but replaced by a pocket calculator. Kress' more moderate vision is of a system in which there is considerable sentencing discretion but in which there are rules governing its exercise and there is appellate review to enforce the rules and refine them. Anyone familiar with the infinite variety of situations that come before a sentencing judge must find the case for discretion overwhelmingly persuasive. It is to the credit of Kress and his colleagues that they have developed a system of guidance that would introduce rules for sentencing decisions while preserving the substantial discretionary authority that is essential if manifest injustice is to be avoided.

For the most part, however, this book is disappointingly superficial. Kress repeatedly makes the point that, by articulating the policies that are to govern sentencing decisions, guidelines enhance the opportunity for serious consideration of the merits of those policies. He devotes most of a chapter to discussing some of the controversial items that have been considered for inclusion in guidelines. But he doesn't take positions on most of the issues, and his discussions of them are unsatisfactory. He reports, for example, that the judges with whom he has worked have been unanimous in their support of sentences based on the "real offense" rather than the offense pleaded to. But he doesn't state his own view, he doesn't address the question of how the "real offense" is to be established, and he doesn't discuss control of plea bargaining as a possible alternative to "real offense" sentencing. Guidelines for sentencing and parole have indeed highlighted a number of issues that cry out for serious policy discussion. The coverage of those issues here, however, contributes little to our understanding of the choices to be made.

Washington, D.C.

ANTHONY PARTRIDGE

Justice: Is It Imperative?

The Justice Imperative: An Introduction to Criminal Justice. By Lewis R. Katz. Anderson Publishing Company, 1980. Pp. 447.

This college textbook is addressed to students interested in understanding the legal foundations of our criminal justice system. Lewis R. Katz, a professor of law, constructed and wrote this book for the purpose of providing college students with a comprehensive, legal overview of the philosophical, historical and practical workings and failures of our criminal justice system. It is written in a legalistic, logical manner. Surprisingly, it does not have the accompanying dryness and tedious dullness which are typical of a legal text. The author's style of writing assists and leads the reader to the ultimate point in question: Justice is imperative if our criminal justice system is to fulfill its goals. Indeed, he has cut away the legalistic fat and presents the reader with a clear, objective and timely view of the legal issues which influence our criminal justice system. A most valuable concept, which is addressed throughout the entire text, is how

the concept of "due process" has slowly woven its way into the fabric of our criminal justice system.

The title is most appropriate: *The Justice Imperative* is the underlying theme throughout the entire text. The author does a remarkable job of presenting complicated legal issues in a layman's language. Students will find this refreshing, to say the least. This is a book that covers the major concern of providing justice at various junctions, from investigation of criminal acts to the sentencing of criminals. Such concerns as the death penalty, and juvenile justice are also considered. It must be noted, though, that any textbook that tries to cover the entire criminal justice process will necessarily be inconclusive and brief in sections. But the author is to be congratulated in defining major topics and not deviating to any side issues or tangents, which legal issues so often invite.

The author presents legal issues in a balanced and objective fashion. He keeps his readers aware of the delicate balance between the rights of the individual and those of society and how they interact at each major junction in our criminal justice process. In addition, Supreme Court decisions are analyzed with no hesitation to illustrate that these decisions are sometimes contradictory. Recommendations for possible solutions to numerous criminal justice problems are made that are based on national advisory commissions. These factors should add to the attractiveness of this work as a college text.

Katz employs an interesting technique of interjecting the practical realities of our criminal justice procedures. For example, on page 173 of the text, the author shows that legal procedures are not always as they appear to be. Then he explains the use of delays by the defense attorney. He states: "Not infrequently, an attorney's stalling is to enable the client's family to raise money for the attorney's fee." A fact that is generally not presented in a college, legal textbook, but a reality in the legal profession. Another interesting statement appears on page 342: "...no matter how finely the law is written, the realization of justice is dependent upon the good-faith adherence to the law by the men and women who are charged with its administration." This is a principle that all students of criminal justice must realize.

The weakness I found, though not distracting, was the lack of a clear explanation between factual guilt and legal guilt in the beginning chapters. This was alluded to but only after progressing through a number of chapters as they related to a particular case in chapter two. The author also fails to differentiate between the different types of policing in the United States. This leads to the assumption that all law enforcement is the same, from the Federal Bureau of Investigation to the local police officer making a traffic stop. It is the local police officer who bears the burden of enforcing the majority of laws and who must apply the law in a broader context than at any other level of law enforcement. Constitutional standards set forth by the United States Supreme Court have in the past erroneously viewed policing as all the same in the United States. Standards placed on the Federal level of law enforcement cannot be met on the local level unless there is equity in enforcement requirements, salaries, training and education. This is not the case even today. Lastly, the emphasis of the text was on those members of society who did not have the resources to afford themselves the best possible services when charged with a crime. Strictly speaking, when taking into account the total number of criminal incidents, the author is correct in emphasizing this large group of persons who are most likely subject to our criminal justice processes. But there is also the new criminal element, not mentioned by the author, of the wealthy criminal (white collar crime and organized crime) who manipulates the procedures to his advantage at the expense of society.

For those students desiring a more technical understanding of the legal issues discussed in the text, the appendix provides material for further inquiry and research. The reader should not overlook the footnotes at the conclusion of each chapter. They contain a wealth of interesting facts and information which support the material in each chapter. An instructor who uses this text will be pleased to know that the discussion questions at the end of each chapter are an excellent aid in fostering intellectual

inquiry of the key issues. The author offers an Instructor's Guide which supports the text and affords an excellent outline to follow as well as a means to evaluate student progress.

The Justice Imperative is an outstanding text in its field and is a must for any student who wants to become acquainted with the legal foundations of our criminal justice system. My views are that it is an excellent textbook, well-documented and easy to comprehend—a recommended textbook for any introductory course in criminal justice curriculum. It was a pleasure to read a textbook of this caliber.

Indiana State University

EDMUND W. GROSSKOPF

Alternative Assumptions for an Alternative Correctional Approach

The Mask of Love: Corrections in America—Toward a Mutual Aid Alternative. By Dennis Sullivan. Port Washington, New York: Kennikat Press, 1980. Pp. 174. \$17.50.

The nature of the book, and apparently of the author, is philosophical rather than practical. The author reviews the interface between corrections and society, lumping together indictment, institutional, diagnostic, and casework aspects of corrections. *Mask of Love* principally deals with the assertion that society has created a system of professionals who sell "safety" as a commodity to consumer public. Corrections has reached a point where it is merchandised and sold by its own establishments—which looks first of all to perpetuate itself rather than to deal with the actual problem. In this sense, the author seems to be saying that, "the solution is actually the problem," because the status quo in corrections is "a mask of love" by which we mask our true concern with purchased institutional concern. This "mask of love" as corrections is characterized, causes people to deny and move away from their group identity, their innate human experiences, and desire to establish connectedness between individual people and groups. *Mask of Love* deprecates the valid point that society does increasingly try to "buy" safety through more police, prisons, etc., rather than make safety through social and economic development. The book one-sidedly suggests that some of the more advanced, positive elements of current correctional practice—such as bringing nonprofessionals (volunteers) into corrections or performing voluntary work in lieu of incarceration—do not help the community as well as the offender. "The efforts of people like Maxwell Jones, all of the forms of group based treatment, . . . Synanon, Alcoholics Anonymous, are all attempts to imitate this mutual aid context. That they must isolate and take away our hurting members from the community into segregated units is the problem with them . . ."

Mask of Love asserts that the correctional establishment along with big government, the education establishment and the capitalist system are the causes of social disintegration by destroying people's ability to experience and deal with the world on an individual basis. The assertion is that the correctional establishment makes the public less able to deal with their social environment. *Mask of Love* concludes by suggesting that the real revolution that needs to occur in corrections is one in which people as individuals move away from a reliance on professionals, prisons, punishment, and accept the "human condition" as one which has a necessary amount of pain and injustice. The book repeatedly suggests "mutual aid," meaning help, relatedness, and positive concern by the individual, group, and society are the means to control and eradicate crime: "Bit by bit each person finds him or herself rejecting power and punishment as methods for correcting severed relationships, realizing that such processes destroy the foundation of personal history, and of personal and communal continuity. . . . People who have hurt others, especially those who have hurt others seriously, are people whose needs have not been met, whose stories have not been

told, and who limit themselves foolishly to power and enforcement as means to satisfy their needs, which, once denied as valid, become demons to be unleashed upon the world . . ."

The book ignores the idea that some human behavior, i.e., murder, robbery, or child molesting, violates basic moral standards. No mention is made whatsoever about any behavior that merits sanction or punishment. The book in its forgiving approach to crime and condemnation of corrections, blames society, its establishments, and institutions as the root cause of most human mischief.

In summary, this writer found *Mask of Love* not to be an alternative at all, but merely a very long-winded and esoteric diatribe by an author with some unspecified axe to grind against modern day society. True corrections apparently as defined by Mr. Sullivan somehow approximates communal sharing of crime and suffering a growth experience, in an involuntary, fatalistic, and naive dream world. The volume fails to show any substance that justifies either the price or the readers' investment of time.

Santa Cruz, Calif.

STUART L. SCOTT

The Judicial Conference of the United States: The Bicentennial Committee

Judges of the United States. U.S. Government Printing Office, 1980. Pp. 550. Supt. of Doc. class. Ju 10.2:J89/4. Stock number 028-004-000338.

One of the projects of the Bicentennial Committee of the Judicial Conference of the United States was to compile a directory of the judges of the United States. Information for the directory was compiled from various sources. All living judges were asked to answer questionnaires for their biographies and to supply information on deceased judges who served within their respective areas and who were appointed on or after January 1, 1980. Professor Kermit Hall, Wayne State University, prepared both biographical information on all district, circuit and territorial judges appointed prior to 1900 and those territorial judges appointed after 1900. Some biographical data from Marquis' *Who's Who* and *Who Was Who* was also utilized.

The Directory includes judges appointed by the Congress prior to the Judiciary Act of September 24, 1789. Also included are judges of the Court of Appeals for "Cases of Capture." (These judges were elected by the Congress under the Articles of Confederation; this Court is known as the "precursor of the Supreme Court.") Therefore, the Directory includes every judge of the United States from the time before our Constitution was adopted until 1978. Plans call for the Directory to be revised periodically; each new Federal judge will be asked to complete a questionnaire after confirmation.

The biographical text, arranged alphabetically by surname, includes such information as date of birth, place of birth, date of death, place of interment, schools attended, nominations for appointment, employment, publications, date admitted to practice, family data.

Three indexes are provided. The first index is an Index by Appointing President. Under Continental Congress four judges are listed. Then appointments are arranged alphabetically by President. Under each President, the appointments are likewise arranged alphabetically (date of appointment is also given). The second index is an Index by Year of Appointment. This index also lists the judges alphabetically under the year of appointment. The third index is an Alphabetical Index of all the judges.

Tables of abbreviation are also provided. The tables are broken down into four sections: Table of Abbreviations—Generalized; Table of Abbreviations—Military Titles; Table of Abbreviations—Journals; Table of Abbreviations—Courts.

Needless to say, this work should prove to be a valuable addition to any reference collection.

Northern Illinois University

EARL SHUMAKER

A Study of the Costs of Public Policy in Corrections

The Price of Punishment: Public Spending for Corrections in New York. By Douglas McDonald, Boulder, Colorado: Westview Special Studies in Contemporary Social Issues, Westview Press, 1980. Pp. 160. \$16.50.

This is a book that should be of interest to all correctional administrators and to students of government. Given the obstacles posed by fragmented governmental jurisdictions and antiquated budgeting methods, this study developed by the Correctional Association of New York and the Citizens' Inquiry on Parole and Criminal Justice has produced a remarkably clear and useful picture of the condition of corrections in New York. The book addresses the allocation of funds and personnel resources in prisons, documents the heavy emphasis on security and the paucity of programs. It documents the anemic funding for community-based programs, and points out the apparent confusion and conflicting goals of probation and parole. The underlying theme that emerges is that increasing crime rates, and the resulting increased use of confinement will require enormous expenditures for new institutions. The report points out that an estimated cost per cell of \$30,060, escalates to \$161,363 at 9 percent financing over a 30-year period. (p. 54)

The report also reviews costs of three jails in New York. Although the title of the book promises dry reading, such is not the case. The writing is clear and unambiguous, the charts are excellent, and the analysis of the implications of public policy as reflected in the financial information perceptive.

The report makes a strong case for community corrections; it also raises issues of public policy, the ways it is developed, and the need for a rational versus an emotional approach to the problems of crime and sentencing.

Crisis in corrections is becoming a way of life. However, escalating population and attendant costs combined with taxpayer resistance, are making the crisis event more acute. The book may not provide an answer, but it does clearly lay out the problem in terms anyone can understand.

Washington, D.C.

NICK PAPPAS

The Study of Criminology: A Synthesis of Crime and Crime Control

Crime Control Strategies: An Introduction to the Study of Crime. By Harold E. Pepinsky. New York: Oxford University Press, 1980. Pp. 352. \$9.95.

In addition to conforming with the recent publishing trend toward providing textbooks supposedly useful for both the novice and the advanced level student, Pepinsky's *Crime Control Strategies* serves as a recent example of the academic effort to streamline multiple schools of thought for the purpose of removing some portion of the restraints imposed by more traditional learning methods practiced within specific professions and disciplines. The reader is treated to various evaluations of issues and ideas as they have developed in law, statistical theory, medicine, biology, architecture, and the various social sciences. The exclusion of argot specific to certain professionals and disciplines represents yet a further example of a current trend which may be imposed upon authors by their recognition that publications in the areas of crime and criminal justice have undergone change. This change has been dictated in part to meet the needs of instructors confronted with a change in the composition in college classrooms as well as the increased amount of market competition and the increased cost experienced within the publishing world.

It is frequently thought that textbook writers serve as their

own best critics. If this is so, then, we can safely assume that Professor Pepinsky's knowledge of the strength and limitations of this particular text are used to advantage since the author had made previous classroom use of the material prior to its publication. To highlight the author's style, Pepinsky has adopted a systems approach to the analysis of the crime problem, writes for the most part in excellent prose, and exhibits a special capacity for presenting discussion materials that include far-ranging ideas. Since the book is a general introductory exercise it is important to note that the appearance of fragmentation and discursiveness is generally avoided. This should prove to be the case for the most part when the reader is already knowledgeable of some of the background issues involved. For the beginning student, however, the task of absorbing a multitude of new experiences in reading a general survey text would probably be the likely outcome. But the author attempts to lighten the load somewhat by writing certain sections in rather simplistic fashion. That is, the sentence structure is simple even if the ideas are not. Still, some occasional instructor interpretation may be necessary for the beginning student. The scope of the material is, on occasion, far-ranging. This may be the reason why the book is somewhat repetitive and the author constantly refers the reader back and forth to other sections of the book. Pepinsky also offers a number of suggestions and ideas to help the reader facilitate his/her understanding of the material.

This product has the appearance of a "how to do it" book. That is to say, Pepinsky suggests a number of tactics useful to the student should he/she desire to become more knowledgeable of criminology. At some point Dr. Pepinsky appears to serve in the capacity of advocate and recruiter for the field of criminology. And in the light of the current revival of the pure vs. the applied academic argument, it may be comforting to some that the author includes a number of excellent applied examples helpful for explaining the philosophic background and current methodologies as they relate to the theoretical perspectives under discussion. Further, the book reads much like an exchange between student and professor within the classroom scenario. Throughout the entire book questions and issues are posed and ideas underscored and offered as food for future thought.

Aside from the rather strong appeal for the reader to become involved in the fascinating area of study in crime and criminal justice there is one aspect of this book that may prove less than appealing to the more sophisticated reader. This is the manner in which Pepinsky documents certain knowledge claims. Even if one were to concede that the book is supposed to appeal to the novice as well as the more advanced level reader, some problem in continuity is experienced. This criticism does not suggest any difficulty in the substance nor of the thoughts and ideas presented; rather, the problem experienced is with the flow of ideas. Further, part of the overall discussion suffers from some overdocumentation. This may prove confusing to the less advanced student-reader. The following serves as an example of the problem: "Today, figures on incarceration (placement in jail or prison) can be compared worldwide (Waller and Chan, 1974)." This statement (found on p.40) does not appear to refer to the American crime problem which did, in this instance, serve as the main topic under consideration. Too much emphasis may also have been placed upon the use of literature that is, no doubt, of some historical relevance, but the information offers so little to our current understanding of the American crime problem. On the other hand, Pepinsky offers a vast number of questions and criticisms, but poses few answers of a concrete nature beyond what might happen to our society if only Americans would choose to reorder and change structurally the system as we currently know it. In large part, the author suggests that the crime problem would be solved for us if we would be able to redirect the meaning and substance of the social field of interaction with others we know and do not know. In sum, Pepinsky always keeps the reader thinking about the consequences of current crime control strategies, political and ethical issues, social

morality, cultural ideologies, and the interaction between Homo sapiens and the sociocultural environment.

Crime Control Strategies should probably prove to be most useful as supplementary reading class material. Special attention is given to current crime control tactics, conviction rates, officially induced crime rates, victimization and self-report rates of crime, recidivism, and cost-benefit analysis.

The University of Alabama

DENNIS L. PECK

Reports Received

Accreditation for Corrections (Annual Report). Commission on Accreditation for Corrections, 6110 Executive Blvd., Suite 750, Rockville, Md. 20852, 1980. Pp. 14. This report, covering the work of the Commission in 1979, culminates 5 years of operation in the publication of the tenth and final volume of standards in the series *Manual of Standards for the Administration of Correctional Agencies*.

California Prisoners (Annual Report). Health and Welfare Agency, Department of Corrections, Sacramento, Calif., 1980. Pp. 157. This report furnishes extensive data on the characteristics and movements of prisoners in California institutions for the years 1977 and 1978. The statistical data in this issue are comparable to data published in prior issues and reflect the influence of the recent determinate sentencing law.

California Youth Authority (Annual Report 1979). Department of Youth Authority, 4241 Williamsborough Drive, Sacramento, Calif. 95824, 1980. Pp. 40. This report contains a summary of the major activities of the Authority and a statistical description of programs and population trends. In addition, new legislation adopted in 1979 established an administratively independent Youthful Offender Parole Board and a new cabinet level Youth and Adult Correctional Services Agency.

Correctional Law Digest 1979. College of Law, University of Toledo, Toledo, Ohio 43606, 1980. Pp. 265. This edition is the fifth in a series of law digests and is designed to provide quick access to relevant cases on the operations of correctional institutions and parole and prisoner's rights. The digest is the work of Professor Frank S. Merritt, editor and associate professor of law.

Crime in the United States 1979 (Annual Report). U.S. Department of Justice, Federal Bureau of Investigation, Washington, D.C., 1980. Pp. 337. The Uniform Crime Reports give a nationwide view of crime based on police statistics contributed by state and local law enforcement agencies. Sections in this report include narrative comments and charts on Crime Index Offenses Reported and Cleared, Persons Arrested, Law Enforcement Personnel, and several appendices on methodology and definitions.

Death Penalty Reporter. National College for Criminal Defense, College of Law, University of Houston, Houston, Texas 77004, Vol. 1, No. 1, September 1980. Pp. 35. The lead article in this issue is an analysis of the New Mexico Death Penalty Statute by Anthony Amsterdam of the Stanford University Law School. Other features include Recent Cases and a listing of death row inmates in all states.

Drugs and Crime: A Survey and Analysis of the Literature. U.S. Department of Justice, National Institute of Justice, Washington, D.C. 20531, May 1980. Pp. 173. As part of its mandate to make studies and undertake research programs on the relationship between drug abuse and crime, this literature review is an outgrowth of an effort to develop a drug-crime research agenda. The literature review is organized around five topical areas: methodological problems, patterns of drug abuse and criminal behavior, life-cycle patterns in drug abuse and crime, economic issues, and treatment interventions.

Federal Prison Service Fiftieth Anniversary 1930-1980. U.S. Department of Justice, Federal Prison System, Washington, D.C., 1980. Pp. 30. The proceedings of the 50th Anniversary Celebration are reported in this publication. It includes two addresses by Myrl Alexander and H. G. Moeller on the early

history and organizational changes within the Bureau of Prisons over the past half century.

Gang Violence Reduction Project Evaluation Report. California Youth Authority, Sacramento, Calif., 1980. Pp. 95. This report covers the third funding period of June 1978 to June 1979. The goal of the project, beginning in November 1976, was to reduce gang-related crimes in the East Los Angeles unincorporated areas. The project processes during the first two funding periods are summarized and the third period processes are analyzed in greater detail.

The Hispanic Experience of Criminal Justice. Hispanic Research Center, Fordham University, Bronx, N.Y. 10548. Monograph No. 3, 1979. Pp. 79. In this study, Peter L. Sissons explores the Puerto Rican presence in the criminal justice system of New York: the number of Puerto Ricans in the State's correctional system is increasing rapidly; increased probability of drug offense convictions, prison sentences, and longer probation periods of supervision. The last chapter of this monograph presents a summary of major conclusions and makes several recommendations regarding Hispanic involvement in the criminal justice system.

The Howard Journal of Penology and Crime Prevention. Howard League for Penal Reform, 169 Clapham Road, London, S.W.9 O.P.U., England. Vol. XIX, No. 2, 1980. Pp. 128. The two lead articles in this issue of the Journal are devoted to extensive analyses of two major study reports, one dealing with an examination of the organization and management of the prison system, and the other a report on the use of Boards of Visitors. A third article reports on a study on the treatment of sexual offenders.

How Well Does It Work? Review of Criminal Justice Evaluation, 1978. U.S. Department of Justice, Law Enforcement Assistance Administration, Washington, D.C., June 1979. Pp. 373. The major portion of this volume consists of 10 chapters written by 16 academicians and practitioners who have studied evaluative projects in corrections, crime prevention, courts, police, and juvenile delinquency.

Prison Law Monitor. Institution Educational Services, Inc., 1806 T St., N.W., Washington, D.C. 20009. Vol. 2, No. 11, May 1980 and Vol. 3, No. 1, June 1980. The lead articles in both of these issues are devoted to legal problems related to parole: "The Denial of Due Process of Law in Parole Proceedings" and "Due Process in Parole Release Proceedings." In addition to the regular features listing casenotes on current court proceedings, both issues also contain a wide range of other articles on a variety of criminal justice concerns.

The Status of Children, Youth, and Families 1979. U.S. Department of Health and Human Services, Office of Human Development Services, Washington, D.C., August 1980. Pp. 251. This publication is the third in the biennial series of reports on the conditions of children, youth, and families. The chapter headings range from demographic and economic trends and life cycle development to status of research on children and families.

Books Received

The American Jail: Its Development and Growth. By J. M. Moynahan and Earle K. Stewart. Chicago: Nelson-Hall Publishers, 1981. Pp. 213. \$18.95.

Crime and Punishment—Changing Attitudes in America. By Arthur L. Stinchcombe, Rebecca Adams, Carol A. Heimer, Kim Lane Scheppele, Tom W. Smith, and D. Garth Taylor. San Francisco: Jossey-Bass, Inc., Publishers, 1980. Pp. 171. \$15.95.

Criminal Interrogation. Third Edition. By Arthur S. Aubry, Jr., and Rudolph R. Caputo. Springfield, Ill.: Charles C. Thomas, Publisher, 1980. Pp. 441. \$18.75.

Criminals and Victims: A Trial Judge Reflects on Crime and Punishment. By Lois G. Forer. New York: W.W. Norton & Company, 1980. Pp. 333. \$14.95.

Deviant Street Networks: Prostitution in New York City. By Bernard Cohen. Lexington, Mass.: Lexington Books, 1980. Pp. 200.

Did I Have a Good Time?—Teenage Drinking. By Marion Howard. New York: The Seabury Press, 1980. Pp. 161. \$10.95.

Discretion and Lawlessness: Compliance in the Juvenile Court. By James T. Sprowls. Lexington, Mass.: Lexington Books, 1980. Pp. 121. \$14.95.

An Evaluation of Juvenile Diversion. By Ted Palmer and Roy V. Lewis. Cambridge, Mass.: Oelgeschlager, Gunn & Hain, Inc., Publishers, 1980.

Folk Devils and Moral Panics: The Creation of the Mods and Rockers. By Stanley Cohen. New York: St. Martin's Press, 1980. Pp. 235. \$22.50.

Fundamentals of Criminal Investigation. Fifth Edition. By Charles E. O'Hara with Gregory L. O'Hara. Springfield, Ill.: Charles C. Thomas, Publisher, 1980. Pp. 909. \$26.75.

Juvenile Delinquents: Psychodynamic Assessment and Hospital Treatment. By Richard C. Marohn, Diane Dalle-Mille, Elaine McCarter, and Doris Linn. New York: Brunner/Mazel, Publishers, 1980. Pp. 294.

Lawyers, Psychiatrists and Criminal Law: Cooperation or Chaos? By Harlow M. Huckabee, J.D. Springfield, Ill.: Charles C. Thomas, Publisher, 1980. Pp. 203. \$16.75.

Legal Psychology: Eyewitness Testimony; Jury Behavior. By L. Craig Parker, Jr., Ph.D. Springfield, Ill.: Charles C. Thomas, Publisher, 1980. Pp. 185. \$22.75.

Parole: Crime Prevention? or Crime Postponement? By Howard R. Sacks and Charles H. Logan. West Hartford, Conn.: The University of Connecticut School of Law Press, 1980. Pp. 132.

Perspectives on Crime Victims. Edited by Burt Galaway and Joe Hudson. St. Louis: The C. V. Mosby Company, 1981. Pp. 435. \$16.95 (paper).

Prescription for Justice: The Theory and Practice of Sentencing Guidelines. By Jack M. Kress. Cambridge, Mass.: Ballinger Publishing Company, 1980. Pp. 384. \$25.00.

Punishment, Danger & Stigma: The Morality of Criminal Justice. By Nigel Walker. Totowa, N.J.: Barnes & Noble Books, 1980. Pp. 206. \$22.50.

Research Methods in Criminology and Criminal Justice. By Edwin S. Johnson. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980. Pp. 418. \$17.95.

Supervision of the Offender. By Harold B. Trester. Englewood Cliffs, N.J.: Prentice-Hall, Inc., Publishers, 1981. Pp. 336. \$15.95.

It Has Come to Our Attention

The E. R. Cass Award of the American Correctional Association was presented at the 1980 Congress of Correction (San Diego, August 17 to 21) to Donald D. Brewer, George G. Killinger, Ph.D., and Peter P. Lejins, Ph.D. Brewer is former director of the District of Columbia Department of Welfare and also former director of the Corrections Division of the University of Georgia's School of Social Work and Institute of Government. Killinger, founding director of the Institute of Contemporary Corrections and Behavioral Sciences at the Sam Houston University, retained that position until 1977 when he was appointed to the Texas Board of Pardons and Paroles as chairman, continuing currently as a member of the board. Lejins is professor emeritus of criminology and sociology, Institute of Criminology and Criminal Justice, University of Maryland.

The Eighth Annual Conference of the Western Society of Criminology will be held February 26 to March 1 at the Bahia Hotel on Mission Bay in San Diego. Theme of the conference (which will have Judge David Bazelon as keynoter) is "Crime, Justice and Morality: Techniques, Mystique, and Critique." For further information write to Dr. Janet Schmidt, Program Chair, Department of Sociology, San Diego State University, San Diego, Calif. 92182.

The University of Minnesota announces the 26th Annual Juvenile Officers Institute to be held on the West Bank of the Minneapolis Campus, June 15 to July 24, 1981. The Institute provides 6 weeks of "intensive interdisciplinary and interprofessional training for law enforcement officers, probation and parole officers, and other juvenile justice personnel. For information write to Richard J. Clendenen, Director, Juvenile Officers Institute, University of Minnesota, 119 TNM, 122 Pleasant Street, S.E., Minneapolis, Minn. 55455.

A call for papers has been announced for the First National Symposium on Court Management to be held September 13 to 16, 1981, in San Diego, Calif. Topics to be covered include: "The Impact of the Rapidly Changing Nature of Society on Courts," "The Effectiveness of Court Managers," "Means to Develop Productive Judge/Administrator Relationships," and "The Role of the Citizen in Improving the Performance of the Judicial Branch." Deadline for submissions is March 31, 1981. The person to contact is Mr. W. Lee Powell, National Center for State Courts, 300 Newport Avenue, Williamsburg, Va. 23185.

The Association for Criminal Justice Research (California) will hold its 13th Semi-Annual Meeting on May 7 and 8, 1981, in Claremont, Calif. The program will address current research and policy issues related to the court adjudication process. For further information contact: Ann Gooley, Executive Officer, Association for Criminal Justice Research (California), c/o Geology and Geophysics, 301 Earth Sciences, University of California, Berkeley, Calif. 94720.

The Criminal Justice Institute of New York, a nonprofit agency, will publish the Corrections Yearbook in January 1981. This pocket-sized guide is the successor to *Instant Answers to Key Questions in Corrections* which was published in 1980. The Yearbook will provide vital facts and figures on adult, juvenile, and foreign corrections. It's editor is Richard Kwartler, who founded *Corrections Magazine*. Statistics contained in the 48-page Yearbook include: prison populations by state of adults and juveniles for January 1, 1981, as well as listings of new prisons constructed for the year ending June 30, 1980. The Yearbook can be ordered by writing the Criminal Justice Institute at 60 East 42nd Street, Suite 956, New York, N.Y. 10165. The price is \$1.75 plus 40 cents for postage and handling.

The University of the Pacific is offering eight internships in conjunction with the California Youth Authority. Senior or graduate students with a strong interest in corrections as a career field are invited to apply for summer internships in CYA programs. Thorough involvement in correctional programs and

course work in evaluation techniques constitute the main responsibilities of the intern. Tuition, room and board, and a small stipend are provided. Applicants from Western States will be given preference. For further information contact John C. Phillips, Department of Sociology, University of the Pacific, Stockton, Calif. 95211. (209) 946-2100.

The International Congress on Drugs and Alcohol will be held September 13 to 18, 1981, in Jerusalem, Israel. Information about the Congress can be obtained by writing to the International Congress on Drugs and Alcohol, P. O. Box 394, Tel Aviv, 61003, Israel.

Henry Cos Laughler, 84, former criminologist with the Federal Bureau of Prisons, died of pneumonia on November 30, 1980. He was with the Bureau from 1943 until his retirement in 1958. Before that, he served as director of the School of Social Work of the College of William and Mary in Richmond, Va., and was a member of the faculty of Louisiana State University's Graduate School of Public Welfare Administration.

The Seventh Institute on Drugs, Crime and Justice in England, sponsored by The American University, will be held July 7 to 24, 1981, at the University of London. It will deal with heroin addiction in Britain and America, English drug abuse treatment programs, the structure of British drug laws, their enforcement by the police and courts, and the use of heroin and other drugs in medical practice, including hospices. For information contact Arnold S. Trebach, Director, Institute on Drugs, Crime and Justice in England, School of Justice, The American University, Washington, D.C. 20016. Telephone questions may be referred to England Drug Institute Coordinator, (202) 686-2405.

Several graduate assistantships are available for the 1981-82 school year at the Criminal Justice Center at Sam Houston State University. Doctoral assistantships pay \$6,000 a year for 12 months, renewable for another year. A few third year assistantships which pay \$10,000 or more are available to doctoral students engaged in teaching or research in the Center. Master's stipends pay \$3,600 for 9 months during the first year and \$4,200 for the second year. For further information and application forms write: Director of Doctoral Studies, Criminal Justice Center, Sam Houston State University, Huntsville, Texas 77341; or telephone (713) 294-1657.

Children and Drugs is the title of a new Public Affairs Pamphlet (No. 534) in which Jules Saltman offers parents practical guidance and provides basic information about drugs. Copies are available at 50 cents each from the Public Affairs Committee, 381 Park Avenue South, New York, N.Y. 10016.

Auxiliary Bishop Anthony M. Pilla of Cleveland has been appointed bishop of that diocese by Pope John Paul II. He is the brother of Joseph G. Pilla, chief probation officer of the U.S. District Court for the Northern District of Ohio.

A conference on "Crime and Violence in the Urban Setting," sponsored by the Department of Corrections of Chicago State University and focusing on both blue collar and white collar crimes in urban areas, will be held March 29 to 31, 1981, at McCormick Inn, 23rd and the Lake, Chicago. For information contact: Bryant Feather, Department of Corrections, Chicago State University, 95th and King Drive, Chicago.

The 1980 edition of the *Journal of Probation and Parole*, published by the New York State Probation Officers Association, Inc., is available at \$4 a copy. The Association's address is P. O. Box 786, Elmira, N.Y. 14902.

Claude T. Mangrum, assistant chief probation officer in the San Bernardino County (California) Probation Department, was the recipient of the Western Correctional Association's Pepperdine Award for 1980. Sponsored by WCA and Pepperdine University, the award is presented annually in recognition of significant contributions to the field of corrections in the Western States.

The 26th Annual Southern Conference on Corrections, sponsored by The Florida State University, will be held March 11 to 13, 1981. For additional information contact Professor Vernon Fox, School of Criminology, The Florida State University, Tallahassee, Fla. 32306.

The Eighth Annual Conference of the National Association of Blacks in Criminal Justice will be held April 1 to 4, 1981, in Kansas City, Mo. Theme of the conference is "The Eighties: Black Voices for Equal Justice."

The Law Enforcement Assistance Administration awarded grants totalling \$1 million on January 21, 1981, to help establish accreditation standards for the Nation's estimated 30,000 law enforcement agencies. A \$650,000 grant was made to the International Association of Chiefs of Police to research and develop standards for an accreditation process. The IACP will in turn subcontract part of the project to the National Sheriffs' Association, The National Organization of Black Law Enforcement Executives, and the Police Executive Research Forum.

Public expenditures for civil and criminal justice in the United States increased 7.4 percent (or \$1.8 billion) in fiscal 1979, the Bureau of Justice Statistics announced on January 21, 1981. Expenditures rose from \$24.1 billion in fiscal 1978 to \$25.9 billion in fiscal 1979. State justice direct expenses increased 9.8 percent (from \$6.7 billion to \$7.3 billion) compared to the previous fiscal year, direct local expenditures rose 6.8 percent (from \$14.3 billion to \$15.3 billion), and direct Federal costs increased 4.7 percent (from \$3.1 billion to \$3.3 billion), Bureau Director Harry A. Scarr said. Approximately \$14 billion (or more than one-half of the total expenditures) were spent on police protection, and \$6 billion were spent on corrections activities, Dr. Scarr noted. About \$3.4 billion were spent on judicial activities, \$1.7 billion on prosecution and civil legal services, \$600 million on civil and criminal public defense, and \$500 million on other criminal justice activities. The preliminary report is available from the Bureau of Justice Statistics, Box 6000, Rockville, Md. 20850, telephone: (301) 492-9045. Its title is "Justice Expenditures and Employment in the U.S., 1979."

Sara R. Ehrmann, who authored an article on capital punishment for *FEDERAL PROBATION* in 1962, received the Seventh Annual Hecker Award from the Paulist Center Community's Social Action Committee on February 8, 1981. The Community, located in Boston, Mass., presents the award each year to someone "who has been an outstanding leader in the movement for social justice and whose activity is motivated by concern for God's poor and oppressed people."

The First Annual Community Service Program Conference, sponsored by the Maryland Division of Parole and Probation and the Governor's Commission on Law Enforcement and the Administration of Justice, was held in Annapolis on December 6, 1980. The conference consisted of two general sessions and three workshops relating to community service sentencing options and program liability issues. The objective of the conference was "to facilitate the implementation, utilization, and expansion of this viable sentencing option."

Serious crime remained essentially the same for the sixth year in a row, but household larceny and simple assault were up, the Bureau of Justice Statistics has announced. A comparison of the 1973 crime rates with those measured in 1979 showed that household larceny and simple assault increased 25 and 16.8 percent, respectively, while burglary decreased 8.3 percent, the Bureau said. The 1973-1979 rate changes in rape (up 13.7 percent), robbery (down 7.1 percent), aggravated assault (down 1.5 percent), personal larceny with contact (down 6.5 percent), personal larceny without contact (up 1.1 percent), and motor vehicle theft (down 8.2 percent) were too small to be significant. Statistical significance is related to the size of the sample and the magnitude of the change. The National Crime Survey statistics are gathered through U.S. Bureau of the Census interviews in 60,000 households in which persons 12 years of age and older are asked what crimes they were victims of during the preceding 6 months.

The Nation's police departments have a critical need to develop strategies for assessing the potential for urban disorders, according to a study funded by the Law Enforcement Assistance Administration. The study—"Prevention and Control of Urban Disorders"—is based largely on a review of the law enforcement response to the May 1980 riots in the Liberty City area of Miami and Dade County, Florida. In addition, police officers and executives outside Florida were interviewed and the literature on urban disorder was reviewed. The report said that disorder assessment is not widely viewed as a part of the disorder planning process, but is urgently needed. Additional information about the report may be obtained by writing to the Director, Police Technical Assistance Project, 5530 Wisconsin Avenue, N.W., Washington, D.C. 20015.

The fact that prison inmates are in prison is proof that traditional education programs have failed them and that new approaches to inmate education are needed, according to Dr. Victor G. Strecher, dean and director of the Criminal Justice Center at Sam Houston State University. One of the new approaches he advocates is special training for correctional educators, training such as that recently received by Robert A. Hood, an academic supervisor for the Texas Department of Corrections. Hood, 29, is the first person in the United States certified as a correctional education administrator under the university's new correctional education program. Graduate certification in correctional education is offered in the following areas: correctional education-supervisor; correctional education-mid-management; and correctional education-superintendent. A master's degree in correctional education is also available at the university. For further details on the programs, write Dr. James Barrum, Criminal Justice Center, Sam Houston State University, Huntsville, Texas 77341.

Acting upon the recommendation of California Department of Corrections Director Ruth L. Rushen, Governor Jerry Brown has appointed Gladys L. Crawford as superintendent of the California Institution for Women at Frontera. A graduate of the University of Cincinnati, Crawford has been with the Department of Corrections for 15 years.

Police officers investigating domestic flareups should look upon wife beating as a criminal assault and not a private family matter, according to a Federally funded study by the Police Executive Research Forum. The report, funded by the Law Enforcement Assistance Administration, calls for increased arrests, especially in cases involving serious injury, use of a deadly weapon, or violation of a court restraining order. Arrests also are recommended for people who inflict minor injuries following repeated threats of violence. Copies of the report, "Responding to Spouse Abuse and Wife Beating: A Guide for Police," may be obtained from the Police Executive Research Forum, 1909 K Street, N.W., Washington, D.C. 20006. Prices are: \$6.00 per copy for orders of one to nine; \$4.00 per copy for orders of 10 to 49; and \$3.00 per copy for orders of 50 or more.

The Department of Justice recently announced a 2-year plan for reorganizing the Law Enforcement Assistance Administration (LEAA) and the Office of Justice Assistance, Research, and Statistics (OJARS). The proposal will: (1) create an LEAA structure to administer the conclusion of state and local justice and law enforcement funding programs; (2) strengthen the National Institute of Justice (NIJ) and Bureau of Justice Statistics (BJS); (3) prepare for the creation of an independent Office of Juvenile Justice and Delinquency Prevention (OJJDP); and (4) disperse OJARS' support functions to the independent agencies by September 30, 1981. The proposal has been submitted to the Office of Management and Budget for review.

The Third Annual Women in Crisis Conference will be held at the Sheraton Centre Hotel, in New York City, from June 28 to July 2, 1981. The conference is sponsored by the Project Return Foundation, Inc., and cosponsored by the Smith College School for Social Work and the Howard University School of Social Work. For further information write Women in Crisis, Inc., 444 Park Avenue South, New York, N.Y. 10016.

Acknowledging the attainment of professional levels of operation, the Commission on Accreditation for Corrections has awarded 3-year accreditations to the Federal Prison System; the Florida, Oklahoma, Minnesota, and Utah state departments of corrections; the Volunteers of America; and Alternative House, Inc., a privately operated community program in El Paso, Texas. During the accreditation process, each agency completes a detailed self-evaluation of its administrative policies and operational procedures to determine compliance with the standards. Written documentation is required to prove compliance. For all

areas of noncompliance, a strategy to correct deficiencies must be developed. Teams of trained Commission consultants, who are experienced corrections administrators, conduct on-site audits to verify standards compliance and inspect the facilities.

The Haworth Press, Inc., announces the forthcoming publication of *Advances in Alcohol & Substance Abuse*, a new quarterly under the editorship of Barry Stimmel, M.D., associate dean of the Mount Sinai School of Medicine of the City University of New York. For subscription information write The Haworth Press, Inc., 149 Fifth Avenue, New York, N.Y. 10010.

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